

DRAFT
INITIAL STUDY

720 W. San Carlos Street Redevelopment Project

City of San José

April 2013

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Orchard Supply Hardware W. San Carlos Redevelopment.

PROJECT FILE NUMBER: H13-008

PROJECT DESCRIPTION: A Site Development permit for the construction of a new 37,263 square foot commercial building for a new Orchard Supply Hardware store, an 11,340 square foot garden center, and a surface parking lot with 121 parking spaces. The existing 36,216 square foot Orchard Supply Hardware store and a 29,000 square foot metal storage building on site will be demolished.

Zoning District: CIC (Combined Industrial/Commercial).

The project description includes a conceptual second phase of development including the construction of 26,000 square feet of commercial space with surface parking at the site of the existing Orchard Supply Hardware building. This phase has not been analyzed in the Initial Study/Mitigated Negative Declaration, with the exception of cultural resources, hazards and hazardous materials, and hydrology. Further environmental analysis will be necessary prior to approval of site development permits for the second phase.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southwest corner of West San Carlos Street and Royal Avenue, at 720 W. San Carlos Street (APN 264-15-028).

COUNCIL DISTRICT: 6

APPLICANT CONTACT INFORMATION: Al Shaghaghi, AMS Associates, Inc., 801 Ygnacio Valley Road, Suite 220, Walnut Creek, CA 94596.

FINDING: The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.
- II. AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.
- III. AIR QUALITY.** The project will not have a significant air quality impact, therefore no mitigation is required.
- IV. BIOLOGICAL RESOURCES.**

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment in trees adjacent to the project site.

Mitigation Measure BIO-1.1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February through August.

Mitigation Measure BIO-1.2: If it is not possible to schedule demolition and construction between September and January, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

V. CULTURAL RESOURCES.

Impact CUL-1: Subsurface cultural resources could be uncovered and disturbed during demolition/construction of the proposed project, resulting in a significant impact to archaeological materials.

Mitigation Measure CUL-1.1: A qualified archaeologist will be on-site to monitor the initial excavation of native soil on the northern half of the project site once all pavement and engineered soil is removed. After monitoring the initial excavation in this area, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring will be required.

Mitigation Measure CUL-1.2: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the northern half of the site, all activity within a 50-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.

Mitigation Measure CUL-1.3: In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

VI. GEOLOGY AND SOILS. The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VII. GREENHOUSE GAS EMISSIONS. The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VIII. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Hazardous materials contamination on the site, if encountered in the soil during construction activities, could pose a risk to construction workers and others, and could require disposal at regulated facilities.

Mitigation Measure HAZ-1.1: After demolition of the Orchard Supply Hardware building but prior to the issuance of grading permits, shallow soil samples shall be taken within the existing building footprint to determine if contaminated soil from previous leaking USTs is located in this area of the site with concentrations above established construction/trench worker thresholds. As a result of the property being a former LUST case, notification of the proposed work must be provided to the Santa Clara County Department of Environmental Health (SCCDEH) prior to collecting any soil samples. The soil sampling plan must be reviewed and approved by the SCCDEH prior to initiation of work.

Mitigation Measure HAZ-1.2: If contaminated soils are found in concentrations above established thresholds for worker safety and/or the proposed land use, a Site Management Plan (SMP) will be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

A SMP will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities.

Components of the SMP will include: a detailed discussion of the site background; preparation of a Health and Safety Plan by an industrial hygienist; notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the California Regional Water Quality Control Board, San Francisco Bay Region's reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; soil stockpiling protocols; and protocols to manage groundwater that may be encountered during trenching and/or subsurface excavation activities. Prior to issuance of grading permits, a copy of the SMP must be approved by the SCCDEH, the City's Director of Planning, Building and Code Enforcement, and copied to the Environmental Service Department's Environmental Compliance Officer.

- IX. HYDROLOGY AND WATER QUALITY.** The project will not have a significant impact on hydrology and water quality, therefore no mitigation is required.
- X. LAND USE AND PLANNING.** The project will not have a significant land use impact, therefore no mitigation is required.
- XI. MINERAL RESOURCES.** The project will not have a significant impact on mineral resources, therefore no mitigation is required.
- XII. NOISE.** The project will not have a significant noise impact, therefore no mitigation is required.
- XIII. POPULATION AND HOUSING.** The project will not have a significant population and housing impact, therefore no mitigation is required.
- XIV. PUBLIC SERVICES.** The project will not have a significant impact on public services, therefore no mitigation is required.
- XV. RECREATION.** The project will not have a significant impact on recreation, therefore no mitigation is required.
- XVI. TRANSPORTATION / TRAFFIC.** The project will not have a significant impact on transportation or traffic, therefore no mitigation is required.
- XVII. UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.
- XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.** With implementation of the mitigation measures above, the project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **May 14, 2013**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulation period, from April 24, 2013 to May 14, 2013

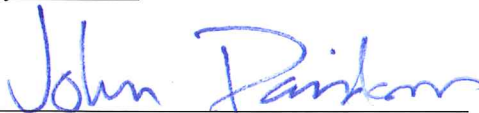

Deputy

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SECTION 1 INTRODUCTION AND PURPOSE

This Initial Study (IS) has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 *et seq*), and the regulations and policies of the City of San José. The purpose of this IS is to inform decision makers and the general public of the environmental impacts that might reasonably be anticipated to result from development of the proposed project.

In 2011, the City of San José approved the San José 2040 General Plan, which is a long-range program for the future growth of the City. The San José 2040 General Plan FEIR was a broad range analysis of planned growth and did not analyze specific development projects. The intent was for the San José 2040 General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier.

This IS has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the 2040 General Plan.

Tiering From Previous EIRs

In accordance with CEQA, this IS will tier from the San José 2040 General Plan FEIR. The CEQA Guidelines contain the following information on tiering an environmental document:

§15152 – Tiering. (a) “Tiering” refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later projects.

(b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequence of analysis is from an EIR prepared for a general plan, policy, or program to an EIR or negative declaration for another plan, policy, or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

This IS and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3rd floor, during normal business hours.

SECTION 2 PROJECT INFORMATION

2.1 PROJECT TITLE

720 W. San Carlos Street Project (Orchard Supply Hardware)

2.2 PROJECT LOCATION

The 5.78-acre project site is comprised of seven parcels (APNs listed below) located at the southwest corner of West San Carlo Street and Royal Avenue in the City of San José (see Figures 1 and 2).

2.3 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
Contact: Rich Buikema
200 East Santa Clara Street
San José, CA 95113
(408) 535-7835

2.4 ASSESSOR'S PARCEL NUMBERS

264-15-015, -016, -017, -018, -019, -028, and -31

2.5 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation: *Combined Industrial/Commercial*
Zoning: *Combined Industrial/Commercial*

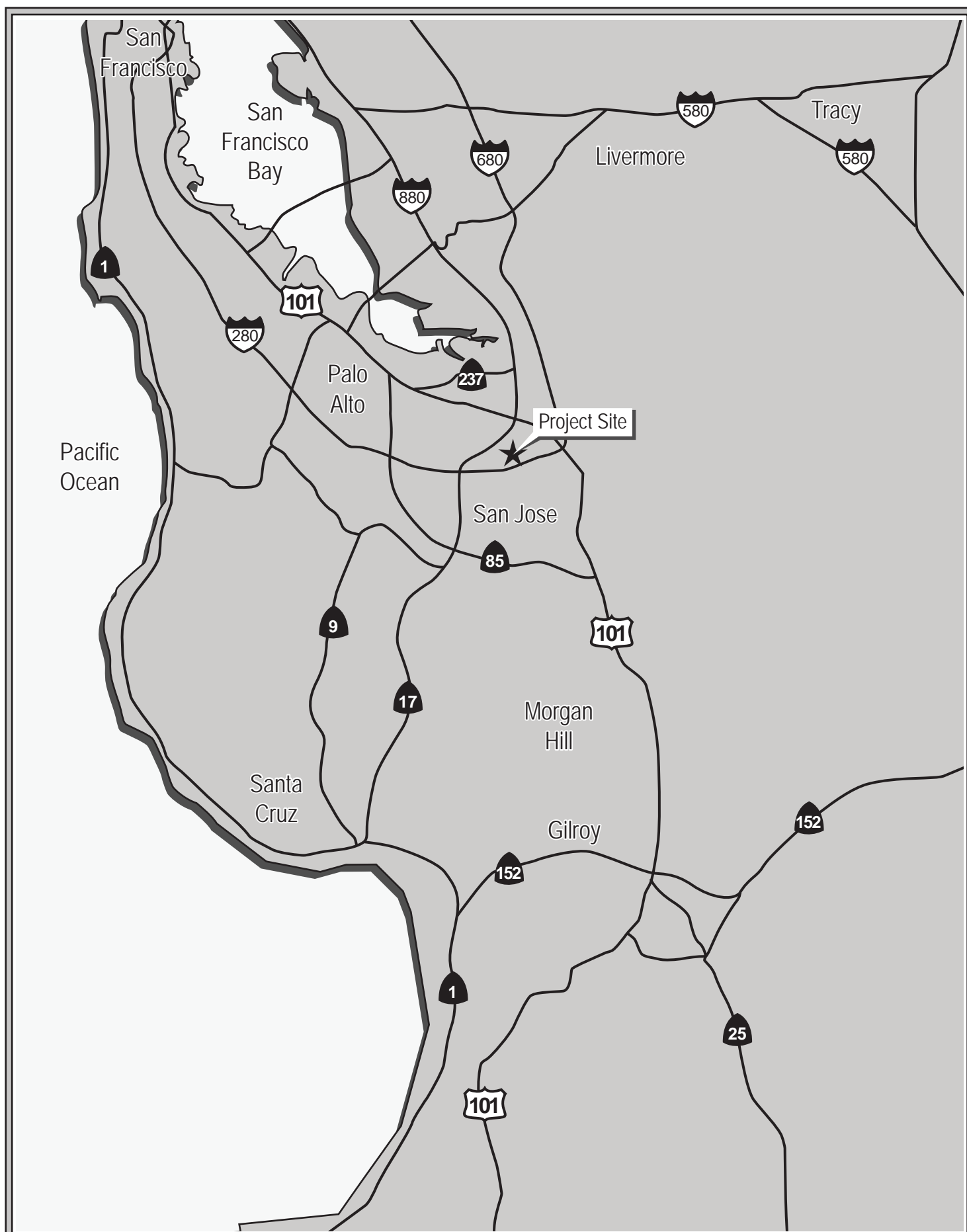
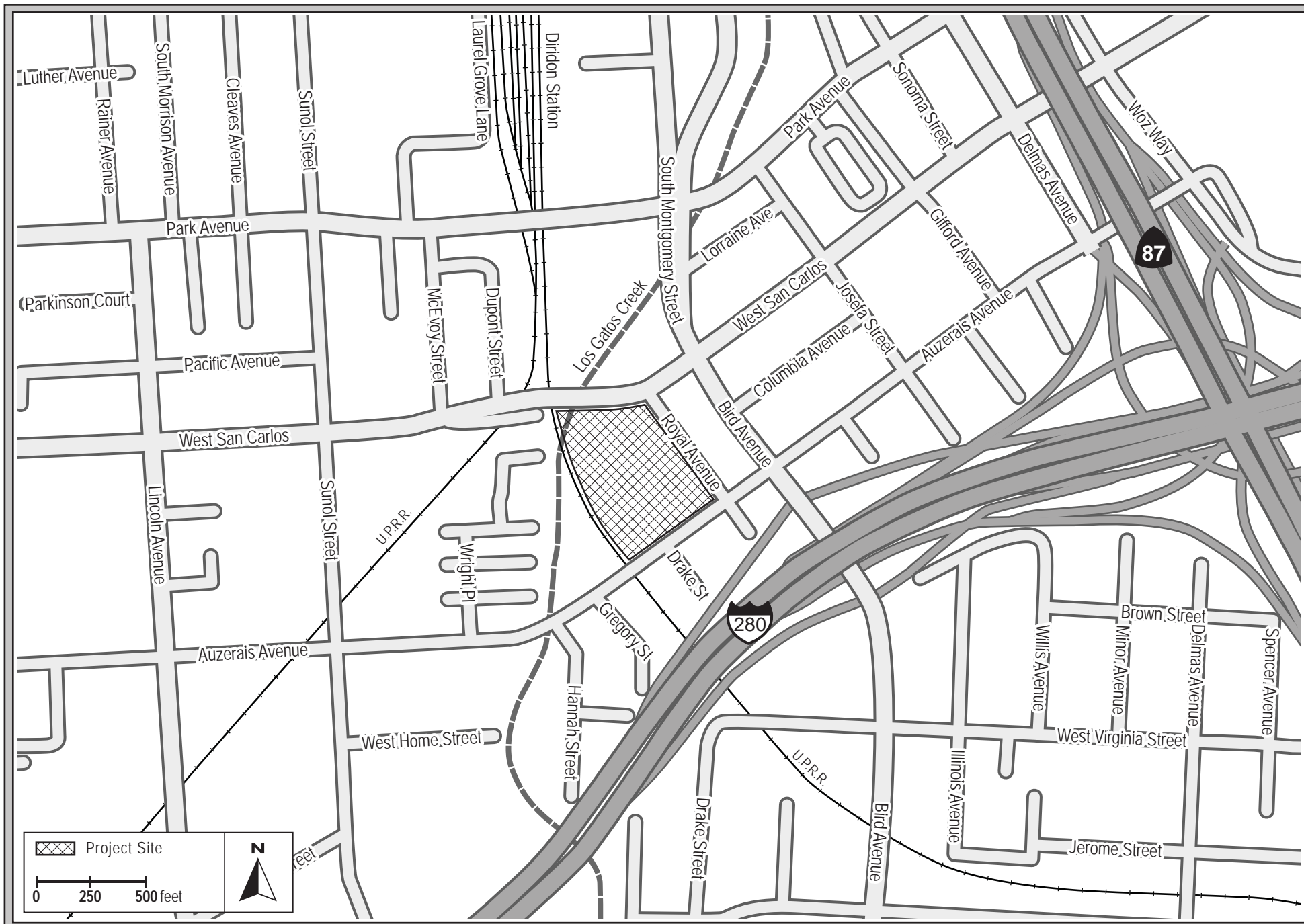


FIGURE 1



VICINITY MAP

FIGURE 2

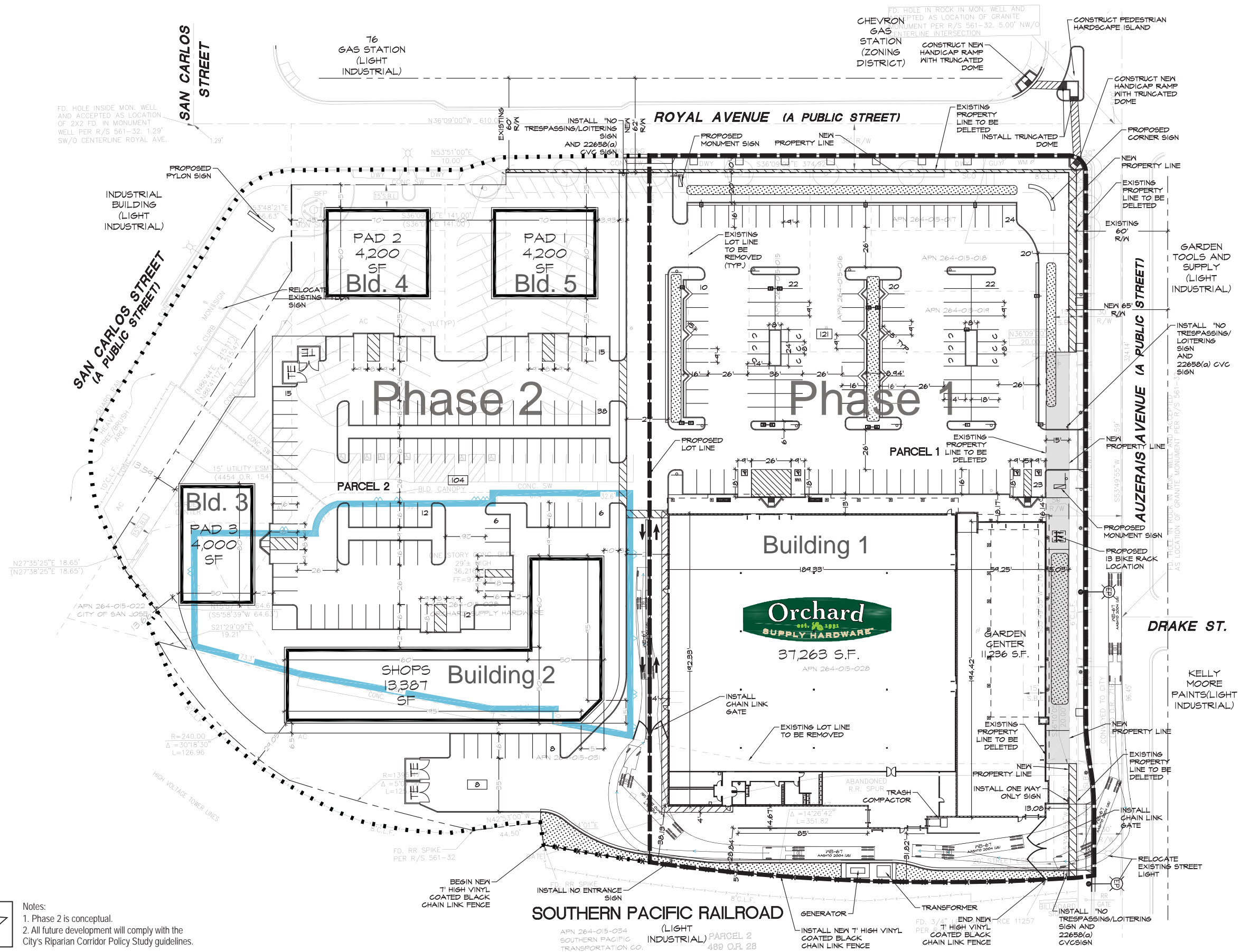
SECTION 3 PROJECT DESCRIPTION

The 5.78-acre (251,881 square foot) project site is comprised of seven parcels (APNs 264-15-015, -016, -017, -018, -019, -028, and -31) located at the southwest corner of West San Carlos Street and Royal Avenue in the City of San José. The site is currently designated *Combined Industrial/Commercial* under the City of San José's adopted General Plan and zoned *Combined Industrial/Commercial*. The proposed project site is located within the Downtown Strategy 2000 project area.

The irregularly shaped parcel has three street frontages, West San Carlos Street to the north, Royal Avenue to the east, and Auzerais Avenue to the south. The entire site is currently developed with a one-story commercial building in the northwestern portion of the site totaling approximately 36,216 square feet. The building was constructed in 1946 and has been continually occupied by Orchard Supply Hardware since that time. Immediately south of the main building are two accessory buildings which are utilized as warehouse facilities for the store. The warehouse buildings were constructed between 1946 and 1947. A fenced outdoor storage area is located adjacent to the warehouse buildings along Auzerais Avenue. The eastern half of the project site is occupied by a large surface parking lot. Within the parking lot, on the southeast corner of the site, is a vacant single-family house constructed circa 1895. The house is boarded up and has been vacant since 2001. Just west of the house is a 25-foot tall billboard. The project site is currently accessed by one ingress/egress driveway on Auzerais Avenue and three ingress/egress driveways on Royal Avenue.

As proposed, the project would demolish the existing buildings and hardscape, remove the billboard, and construct up to five one-story commercial buildings with associated surface parking. (see Figure 3 – Conceptual Site Plan) There are no trees directly on the project site. There are trees and other landscape vegetation located within a landscape buffer between the project site and San Carlos Street and the street trees along Auzerais Avenue and Royal Avenue. None of the trees or landscaping around the perimeter of the site are proposed to be removed. There is currently a large pole sign along the northern boundary of the site. This sign will be relocated approximately 70 feet east to the corner of W. San Carlos Street and Royal Avenue. The project will be constructed in two phases as described below.

Phase 1 will be construction of a 37,263 square foot commercial building (Building 1). Building 1 will be located at the southwest corner of the project site and will be occupied by Orchard Supply Hardware. An 11,340 square foot outdoor garden center will be attached to the southern end of the building. A surface parking lot will be located adjacent to the east side of Building 1. Initially, the existing warehouse buildings and house on the southern portion of the site will be demolished and the Phase 1 project area cleared to allow for the construction of Building 1. Once Building 1 is complete, the existing commercial building will be demolished to allow for the future Phase 2 development. There is currently no time frame for the development of Phase 2.



CONCEPTUAL SITE PLAN

FIGURE 3

Phase 2 will include a total of approximately 25,787 square feet of commercial space. The site plan shows a conceptual layout for Phase 2 with a 13,387 square foot L-shaped building (Building 2) located immediately north of the new Orchard Supply Hardware building, a 4,000 square foot building (Building 3) located between the L-shaped building and West San Carlos Street, and two 4,200 square foot buildings (Buildings 4 and 5) located along the Royal Avenue frontage. The ultimate location, size, and setbacks of the Phase 2 buildings will be determined in consultation with City staff, but the total square footage will not exceed approximately 25,787. A large surface parking lot would be centrally located to serve the new buildings.

The total available automobile parking on-site for the Orchard Supply Building would be 121 parking spaces. The Phase 2 development would be required to meet the City's parking requirements, but the conceptual plan shows 112 parking spaces. Access to the parking lots would be from one ingress/egress driveway on Auzerai Avenue and one shared ingress/egress driveway that will be centered on the Royal Avenue frontage between the two parking areas.

Building 1 would be setback a minimum of 28 feet from the western property line. Delivery truck access to the building will be provided within this setback. The plant nursery will be setback approximately 13 feet from the sidewalk along Auzerai Avenue. The final setback requirements for the remaining buildings, based on City policy, will be determined in coordination with City staff during future development phases.

Approval of the proposed project will require a Site Development Permit.

SECTION 4.0 ENVIRONMENTAL SETTING & CHECKLIST

This section describes the existing environmental conditions on and near the subject site, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the CEQA Guidelines, was used to identify environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified in Section 5.0. Mitigation measures are identified for all significant project impacts. “Mitigation Measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 Project Site

The project site is comprised of one single-story commercial building, two accessory buildings, a two-story vacant single-family house, and a large surface parking lot. The main commercial building is oriented toward Royal Avenue and is setback at the far western end of the property. The two accessory buildings are located immediately south of the main building, along Auzerai Avenue. The main building has a flat roof and a large expanse of floor to ceiling glass panels along most of the primary façade. The remainder of the front façade is concrete with no architectural details.

The north end of the building has a fenced and covered enclosure which is used as the garden center. (see Photos 1-3). The original modern aesthetic of the main building design (circa 1946) is still apparent, but the overall appearance of the building has changed substantially since it was originally constructed (see Section 4.5, *Cultural Resources*, for a detailed discussion). The parking lot that serves the site is in fair condition with broken concrete and poorly marked parking stalls. There is no landscaping within the parking area. The only landscaping around the main building is the approximately 35-foot wide landscape buffer between the parking lot and West San Carlos Street. Street trees are located along Royal Avenue and Auzerai Avenue.

The accessory buildings are one-story warehouse type metal structures with large roll-up doors. These buildings have no particular architectural style. There is no landscaping around these buildings aside from a few street trees along Auzerai Avenue. (see Photos 4 and 5)

There is a two-story, single-family house located at the southeast corner of the site that is surrounded by a six-foot chain link and barbed wire fence. (see Photo 6) The house is boarded up and in poor condition. The house has been vacant for approximately 12 years (see Section 4.5, *Cultural Resources*, for a detailed discussion). An approximately 25-foot tall billboard is located immediately west of the house, next to the project site driveway. (see Photo 7)



PHOTO 1: View of the project site, looking west from Royal Street.



PHOTO 2: View of the Orchard Supply Hardware building, looking west from the project site parking lot.



PHOTO 3: View of the Orchard Supply Hardware outdoor nursery, looking west from the project site parking lot.



PHOTO 4: View of the accessory buildings on-site, looking south from the project site parking lot.



PHOTO 5: View of the outdoor storage area for Orchard Supply Hardware, looking northeast from Auzerals Avenue.



PHOTO 6: View of the single-family house on the project site, looking west from Royal Street.



PHOTO 7: View of the single-family house and billboard on the project site, looking east from Auzerais Avenue.



PHOTO 8: View of San Carlos Street elevated over the creek, looking west from the San Carlos Street/Royal Street intersection.



PHOTO 9: View of the commercial businesses on the north side of San Carlos Street, looking north from the project site.



PHOTO 10: View of the commercial businesses on the east side of Royal Street, looking east from the project site.



PHOTO 11: View of the commercial businesses on the south side of Auzerais Avenue, looking south from the project site.



PHOTO 12: View of the railroad tracks immediately west of the project site, looking north from Auzerais Avenue.

4.1.1.2 Surrounding Land Uses

Development in the project area is a mix of retail/commercial, office, and residential land uses. Building heights vary by land use from one to eight stories. The project site is bounded by West San Carlos Street to the north, Royal Avenue to the east, Auzerais Avenue to the south, and Los Gatos Creek and the railroad tracks to the west. Adjacent to the project site, West San Carlos Street (a four-lane roadway with a partial median) is elevated where it crosses over the creek (see Photo 8). On the north side of West San Carlos Street is a car wash and a recently renovated one-story house that has been converted into a commercial building (see Photo 9).

Royal Avenue is a two-lane roadway with street trees along the western side of the road. On the east side of Royal Avenue is mix of one-story commercial businesses and gas stations. The commercial buildings are nondescript concrete structures in generally good visual condition. Between the two commercial buildings are two single-family residences that have been converted to commercial businesses. One house has no discernible architectural style and the other house is styled as a Queen Anne (see Photo 10). At each end of the block is a gas station.

Auzerais Avenue is a two-lane roadway with very minimal landscaping along the project site frontage. On the south side of Auzerais Avenue are various commercial businesses comprised of one-story commercial buildings and converted one-story houses in a mix of architectural styles (see Photo 11). Immediately west of the project site is the railroad tracks (see Photo 12)

4.1.1.3 Applicable Aesthetics Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid black walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Policy CD-1.18: Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.

Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.

4.1.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.1.2.1 Aesthetic Impacts

Scenic Vistas and Other Scenic Resources

Most of the City is relatively flat and prominent viewpoints, other than buildings, are limited. The project area in particular has minimal to no scenic views due to the existing built environment and no designated scenic resources. While the project site is currently developed with one- and two-story buildings, nearby buildings range from one to eight stories in height. The construction of multiple one-story commercial buildings on the project site would not diminish scenic views in the project area or damage any designed scenic resources because there are no views or scenic resources in the project area. **(No Impact)**

Visual Character

The proposed project site is located within a highly developed area of downtown San José. Any new construction on the site will be highly visible from the roadways and surrounding properties, including nearby mid-rise multi-family residences. As outlined above, the project site is in a highly urbanized area and is surrounded with a multitude of architectural styles and building heights.

The General Plan FEIR concluded that while new development and redevelopment under the General Plan would alter the appearance of the City, implementation of adopted policies and existing regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character or quality of the City. Future development on-site will comply with the adopted plans, policies, and regulations as outlined in the General Plan FEIR. As a result, the proposed project would have a less than significant impact on the visual character and quality of the City. **(Less Than Significant Impact)**

Light and Glare

As stated above, development on the project site will be highly visible from the roadways and surrounding properties. The General Plan FEIR concluded that while new development and redevelopment under the General Plan could be new sources of nighttime light and daytime glare, implementation of adopted plans, conformance with adopted policies, regulations, and General Plan policies, would avoid substantial light and glare impacts. The proposed project will comply with the aforementioned General Plan policies and City Council Lighting Policy 4-2. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **(Less Than Significant Impact)**

4.1.3 Conclusion

Implementation of the proposed project would have a less than significant aesthetic impact. **(Less Than Significant Impact)**

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The Santa Clara County Important Farmland 2010 Map designates the project site as *Urban and Built-Up Land* which is defined as land occupied by structures with a building density of at least one unit to a 1.5 acre parcel, or approximately six structures to a 10-acre parcel. Common examples include residential, industrial, institutional facilities, cemeteries, sanitary landfills, etc. The project site is surrounded by urban and built-up land. There is no designated farmland adjacent to the site.¹ The site is not subject to a Williamson Act contract.

There is no forest land uses located on or adjacent to the project site.

4.2.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
4. Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

¹ California Department of Conservation. *Santa Clara County Important Farmland*. 2011. <[ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/sc110.pdf](http://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/sc110.pdf)> Accessed February 27, 2013

4.2.2.1 Impacts from the Proposed Project

Implementation of the project will allow for construction of commercial uses on a currently developed site. The project will not convert *Prime Farmland*, *Unique Farmland*, or *Farmland of Statewide Importance* to a non-agricultural use. The project will not conflict with existing zoning for agricultural use or a Williamson Act contract. The proposed development will not interfere with agricultural operations or facilitate unplanned conversion of farmland elsewhere in San José to non-agricultural uses. The project site is not a forest resource, nor are there forest lands in the vicinity. For these reasons, the project will not result in a significant impact to agricultural or forest resources. **(No Impact)**

4.2.3 Conclusion

Implementation of the proposed project would have no impact on agricultural land, agricultural activities, or forest resources. **(No Impact)**

4.3 AIR QUALITY

4.3.1 Setting

4.3.1.1 Background

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determinants of transport and dilution are wind, atmospheric stability, terrain and for photochemical pollutants, sunshine.

The project site is within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the regional government agency that monitors and regulates air pollution within the air basin.

4.3.1.2 Topography and Climate

The South Bay has significant terrain features that affect air quality. The Santa Cruz Mountains and Diablo Range on either side of the South Bay restrict horizontal dilution. This alignment of the terrain also channels winds from the north to south, carrying pollution from the northern San Francisco Bay Peninsula toward San José.

The proximity of San José to both the Pacific Ocean and San Francisco Bay has a moderating influence on the climate. Meteorological factors make air pollution potential in the Santa Clara Valley quite high. Northwest winds and northerly winds are most common in the project area, reflecting the orientation of the Bay and the San Francisco Peninsula.

4.3.1.3 Regional and Local Criteria Pollutants

Major criteria pollutants, listed in "criteria" documents by the U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and suspended particulate matter (PM). These pollutants can have health effects such as respiratory impairment and heart/lung disease symptoms.

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level ozone or State standards for PM₁₀ and PM_{2.5}. The area is considered attainment or unclassified for all other pollutants.

4.3.1.4 Local Community Risks/Toxic Air Contaminants and Fine Particulate Matter

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air. However, they can result in adverse chronic health effects if exposure to low concentrations occurs for long periods.

Fine Particulate Matter (PM_{2.5}) is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to PM_{2.5} can cause a wide range of health effects.

Common stationary source types of TACs and PM_{2.5} include gasoline stations, dry cleaners, and diesel backup generators which are subject to permit requirements. The other, often more significant, common source is motor vehicles on freeways and roads.

4.3.1.5 Sensitive Receptors

The nearest sensitive receptors to the project site would be the multi-family residences on the west side of Los Gatos Creek, located approximately 160 feet west of the project site and the single-family residences located on Auzerais Avenue, Gregory Street, and Hannah Street, approximately 250 feet southwest of the project site. There are additional single-family and multi-family residences on the east side of Bird Avenue; however, these residences are located farther away from the project site than the previously identified residences. The other surrounding buildings are retail/commercial and are not considered sensitive land uses.

4.3.1.6 Applicable Air Quality Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,5
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,5
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,5
4. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,5
5. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.3.2.1 Clean Air Plan Consistency

Determining consistency with the 2010 Clean Air Plan (CAP) involves assessing whether applicable control measures contained in the 2010 CAP are implemented. Implementation of control measures improve air quality and protect public health. These control measures are organized into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures (TCMs), Land Use and Local Impact Measures, and Energy and Climate Measures. Applicable control measures and the project's consistency with them are summarized in Table 1, below. The project supports the primary goals of the Clean Air Plan in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions and is infill development in proximity to existing residences, as well as existing transit, which will reduce vehicle trips. The project is also consistent with the City's Greenhouse Gas Reduction Strategy (refer to *Section 4.7 Greenhouse Gas Emissions*). The proposed project is generally consistent with the control measures.

TABLE 1 Bay Area 2010 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
<i>Transportation Control Measures</i>		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	Bike lanes and trails are located throughout downtown in proximity to the site and the project will be required to provide bicycle parking for future site users. The project, therefore, is consistent with this control measure.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The project has been designed to be pedestrian oriented and enhance the pedestrian experience. The project is consistent with this control measure.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The proposed commercial development is located within downtown San José and is within walking distance of existing residences and bus stops. The project will increase the amount and variety of commercial uses on-site to provide more shopping options in a single location. Based on the proposed expansion of retail, the proximity to existing residences, and existing transportation options available to the site, the project is consistent with this control measure.
<i>Energy and Climate Measures</i>		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The proposed project would be required to comply with the City's Green Building Ordinance which will increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	The project would be required to comply with the City's Green Building Ordinance which will increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
Tree-Planting	Promote planting of low-VOC-emitting shade trees to reduce urban heat island effects, save energy, and absorb CO ₂ and other air pollutants.	As designed, the project provides new opportunities to plant new trees on-site which will help with the absorption of air pollutants and help to reduce the urban heat island effect on-site. Therefore, the project is consistent with this control measure.

The project includes transportation and energy control measures and is generally consistent with the Clean Air Plan. The project by itself, therefore, would not result in a significant impact related to consistency with the Bay Area 2010 Clean Air Plan. **(Less Than Significant Impact)**

4.3.2.2 Impacts to Regional and Local Air Quality

The proposed project is well below the screening size for operational criteria pollutants. Therefore, the project would not exceed emissions thresholds for criteria pollutants and would have a less than significant impact on regional air quality. **(Less Than Significant Impact)**

A determination of the project's potential to result in significant local air pollutant emissions (i.e., carbon monoxide) is based on its consistency with the local Congestion Management Program and its potential to add sufficient vehicle trips to one or more intersections that would cause the intersection(s) to exceed 44,000 vehicles per hour. The project would not contribute vehicle traffic exceeding screening thresholds for carbon monoxide impacts at the intersections affected by the project. The project, therefore, would have a less than significant local air quality impact. **(Less Than Significant Impact)**

4.3.2.3 Community Risk Impacts

BAAQMD recommended thresholds of significance for local community risk and hazard impacts that apply to both the siting of a new source and to the siting of a new receptor. Local community risk and hazard impacts are associated with TACs and PM_{2.5} because emissions of these pollutants can have significant health impacts at the local level. The project does not include sensitive receptors and future site users would not have long term exposure to TACs from Highway 280 or West San Carlos Street. Therefore, operation of the project would have a less than significant community risk impact. **(Less Than Significant Impact)**

4.3.2.4 Construction Impacts

Construction activities would temporarily affect local air quality. Construction activities such as demolition, earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. The proposed project is well below the BAAQMD commercial screening criteria size for construction ozone precursor emissions of 277,000 square feet. Therefore, the project would not exceed emissions thresholds and construction of the project would have a less than significant impact on regional air quality. **(Less Than Significant Impact)**

Construction Dust Emissions

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying soils are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of particulate matter downwind of construction activity.

Consistent with City policies, the project shall implement the following measures during all phases of construction on the project site to reduce dustfall and locally-elevated particulate matter emissions:

- All active construction areas shall be watered twice daily or more often if necessary. Increased watering frequency shall be required whenever wind speeds exceed 15 miles-per-hour.
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads and parking and staging areas at construction sites.
- Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials shall be covered.
- Damp sweep daily, or more often if necessary, all paved construction areas and adjacent street of dust and debris.
- Subsequent to clearing, grading, or excavating, exposed portions of the site shall be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for ten days or more.
- Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replanting of vegetation in disturbed areas as soon as possible after completion of construction.

The following best management practices will also be implemented on the project site to reduce fugitive dust and particulate matter emissions to the extent feasible:

- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Post a publicly visible sign with the telephone number and person to contact at the City of San José regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the identified dust control measures required for the project, the project would have a less than significant construction related air quality impact. **(Less Than Significant Impact)**

Construction TAC Emissions

Construction of the project would result in the generation of TACs, including diesel PM, from trucks and off-road equipment exhaust emissions. Construction activity on the project site will vary over time and the emissions of TACs would also be temporary given the relatively short timeframe diesel

equipment will be used in close proximity (approximately 160 feet) to sensitive receptors. The current models and methodologies available to conduct health risk assessments do not correlate to the temporary and variable nature of construction activities. Therefore, accurate estimates of health risk due to construction activity are difficult to quantify. BAAQMD does not currently provide quantification tools and acknowledges that the implementation of the best management practices identified in the discussion of construction dust emissions above would also reduce diesel PM exhaust emissions.

The nearest sensitive receptors are located west and southwest of the project site. Winds from the north and northwest are typical in the project area. Therefore, sensitive receptors are not located downwind of the project site and would be unlikely to be exposed to substantial concentrations of construction emissions. With the implementation of construction best management practices, including limitations on the idling of construction vehicles, construction TAC emissions from the project site would be limited in the immediate project area. **(Less Than Significant Impact)**

4.3.3 Conclusion

The proposed project would have a less than significant impact on local and regional air quality. **(Less Than Significant Impact)**

With implementation of the required control measures described above, the proposed project would have a less than significant TAC impact on future site residents. **(Less Than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

4.4.1 Setting

4.4.1 Regulatory Setting

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are identified as rare, threatened, or endangered under the State and/or Federal Endangered Species Act, and the natural communities of habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodland) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA is consistent with and complimentary to various Federal, State, and local laws and regulations that are designed to protect these resources. These regulations often mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts required as permit conditions, prior to the commencement of development activities.

4.4.1.1 City of San José Tree Ordinance

The City of San José Tree Removal Controls (San José City Code Section 13.31.010 to 13.32.100) protect all trees having a trunk that measures 56 inches or more in circumference (17.8 inches in diameter) at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San José for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage trees.

4.4.2 Existing Setting

4.4.2.1 Overview of Habitat Found on the Project Site

The project site is fully developed with three commercial buildings, a vacant single-family house, and a paved parking lot. There is an approximately 35-foot wide landscape buffer along the northern border of the project site and street trees along Auzerais Avenue and Royal Street. There is no landscaping within the parking lot.

The site is located in a developed urbanized area in downtown San José. Due to the extensive history of development on the project site, there is no native vegetation on-site. The site is, however, directly adjacent to Los Gatos Creek, a natural riparian corridor. Los Gatos Creek and the associated riparian habitat is considered to be of high quality, with dense foliage and natural creek flow (i.e., not concrete-lined). Currently, the buildings and hardscape are adjacent to the riparian corridor and the top of the creek bank.

4.4.2.2 Special Status Animal Species

Special status species are those plants and animals listed under the State and Federal Endangered Species Acts (including candidate species); plants listed on the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as Species of Special Concern by the California Department of Fish and Wildlife. Most special status animal species occurring in the Bay Area use habitats that are not present on the project site. Salt marsh, freshwater marsh, and serpentine grassland habitats are not present on the project site. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area.

4.4.2.3 Trees

Trees (both native and non-native) are valuable to the human environment for the benefits they supply in resisting global climate change (i.e., carbon dioxide absorption), protection from weather, because they provide nesting and foraging habitat for raptors and other migratory birds, and because they are a visual enhancement.

There are no trees directly on the project site. Trees located within the landscape buffer along West San Carlos Street and the street trees are a mixture of non-native species in varying sizes and levels of health. Based on the proposed site plan, it is assumed that the landscape buffer and street trees will remain and none of the vegetation will be removed as part of this project.

4.4.2.4 Applicable Biological Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policy applicable to all development projects in San José.

Policy ER-2.1: Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

Policy ER-2.2: Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

Policy ER-2.3: Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and

construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

4.4.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.4.2.1 Vegetation, Habitats, and Wildlife

The project site is completely developed and mostly paved without any vegetation. Vegetation along the surrounding roadways consists solely of landscape trees and shrubs. Because of the history of development on-site, no natural or sensitive habitats exist that would support endangered, threatened, or special status wildlife species. The General Plan FEIR concluded that impacts to developed habitats resulting from proposed development under the General Plan will be less than significant because of their abundance within the region and State, and the relatively low value of these habitats for biological resources compared to more natural habitats. Vegetation and wildlife impacts that would occur on the project site due to temporary or permanent loss of natural or sensitive habitats as a result of development of the proposed project would be less than significant. **(Less Than Significant Impact)**

Los Gatos Creek

The project site is located immediately east of Los Gatos Creek. The new Orchard Supply Hardware building will be more than 100 feet from the top of the bank and will not infringe on the riparian corridor. Pursuant to General Plan policy, the final site design for Phases 1 and 2 will be required to comply with the City of San José Riparian Corridor Policy as a condition of approval. The Riparian Corridor Policy sets guidelines on how areas along natural streams should be treated and establishes development guidelines for general site design, building design, and landscaping.

The General Plan FEIR concluded that impacts to riparian habitats resulting from proposed development under the General Plan will be less than significant with adherence to adopted plans and policies and existing regulations. **(Less Than Significant Impact)**

Habitat Conservation Plan

The HCP/NCCP covers species that may occur within Los Gatos Creek. The HCP/NCCP was recently adopted but has not yet been fully implemented. Future projects in San José may be subject to riparian setbacks and measures for maintaining hydrologic conditions and protecting water quality to meet the requirements of the HCP. Water quality impacts during construction will be mitigated as outlined in Section 4.9, *Hydrology and Water Quality*. In addition, the project will be required to pay all applicable fees, as determined by the City, to address nitrogen deposition within the HCP area. Therefore, the proposed project would not conflict with the HCP/NCCP.

With implementation of General Plan policies, existing regulations, and measures included in the project to protect special status species, the proposed project would not conflict with local policies or ordinances protecting biological resources or the provisions of an adopted or pending habitat conservation plan. **(Less than Significant Impact)**

4.4.2.2 Raptor Impacts

Nesting raptors are among the species protected under provisions of the Migratory Bird Treaty Act and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 2800.

There are currently no trees on the project site, but there is an abundance of trees in the immediately surrounding area including along the roadway frontages and within the adjacent riparian corridor. Trees in the immediate area could provide nesting habitat and/or foraging habitat for raptors (such as falcons, hawks, eagles, and owls) and other migratory birds may utilize the large trees on-site or adjacent to the site for foraging or nesting. Construction disturbance near raptor nests can result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFW. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures will be implemented during construction to avoid abandonment of raptor and other protected migratory birds nests:

MM BIO 1-1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February through August.

MM BIO 1-2: If it is not possible to schedule demolition and construction between September and January, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

(Less Than Significant Impact With Mitigation)

4.4.2.3 Trees

The project site is urbanized and has no trees. There are, however, street trees and a landscape buffer along the surrounding roadways. Within the City of San José, the urban forest as a whole is considered an important biological resource because most mature trees provide some nesting, cover,

and foraging habitat for a variety of birds (including raptors) and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. While the urban forest is not as favorable an environment for native wildlife as extensive tracts of native vegetation, trees in the urban forest are often the only or best habitat commonly or locally available within urban areas.

Development of the proposed project should not result in the loss of any trees. Nevertheless, as a condition of approval, trees on adjacent properties which are damaged or removed as a result of the project will be required to be replaced in accordance with all applicable laws, policies, or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

The species of trees to be planted will be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

The General Plan FEIR concluded that compliance with local laws, policies, or guidelines, as proposed by the project, would reduce impacts to the urban forest to a less than significant level.
(Less Than Significant Impact)

The proposed project includes landscaping throughout the parking areas and around the perimeter of the site. Due to the fact that there is currently no landscaping on the project site, the inclusion of extensive landscaping throughout the project site will have a beneficial impact on the urban forest.
(Beneficial Impact)

4.4.2.4 Construction Impacts

Construction activities associated with development of the project site could temporarily impact water quality within Los Gatos Creek. Please see Section 4.9, *Hydrology and Water Quality*, for a complete discussion of this issue.

4.4.4 Conclusion

Conformance with City policies will result in a less than significant impact on trees and the City's urban forest. **(Less Than Significant Impact)**

Conformance with City plans and policies and existing regulations will result in a less than significant impact on the adjacent riparian habitat. **(Less Than Significant Impact)**

With implementation of the proposed mitigation, the project would have a less than significant impact on raptors and other migratory birds. **(Less Than Significant Impact With Mitigation)**

4.5 CULTURAL RESOURCES

The following information is based on a historic resources report prepared by *Archives & Architecture* in November 2012. The historic building report can be found in Appendix A of this document.

4.5.1 Existing Setting

4.5.1.1 Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 1,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone lived in small villages referred to as tribelets. Each tribelet occupied a permanent primary habitation site and also had smaller resource procurement camps. The Ohlone, who were hunter/gatherers, traveled between their various village sites to take advantage of seasonal food resources (both plants and animals). During winter months, tribelets would merge to share food stores and engage in ceremonial activities. Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River.

Although there are no existing conditions or immediate evidence that would suggest the presence of subsurface prehistoric resources, the project site is located in a culturally sensitive area due to known prehistoric occupation of downtown San José. Native American settlements are commonly associated with the abundant food supply in the Santa Clara Valley and they often established settlements near local waterways. The project site is located directly adjacent to Los Gatos Creek, which increases the likelihood that subsurface artifacts may be located on the project site.

4.5.1.2 Historic Subsurface Resources

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776, several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California led to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally located northeast of the project site, near Highway 87 and Hedding Street. This location was prone to flooding and the pueblo was relocated to the south in the late 1780's or early 1790's to what is now downtown San José. The current intersection of Santa Clara Street and Market Street was the center of the second pueblo. While pueblo lands extended well beyond the

central area at Santa Clara and Market Streets, no documented development occurred in the immediate project area during this period.

Post-Mission Period to Mid 20th Century

The project site was originally part of the Rancho de Los Coches which was granted to Roberto Balermينو by the Mexican Government. Mr. Balermينو, a Native American who previously lived at the Mission Santa Clara de Asis, sold the rancho to Antonio Sunol in 1847. A portion of the rancho, referred to as the Sunol Addition, was annexed into the City of San José and had 16 parcels of approximately six acres each. Lot 13 of the Sunol Addition was sold to William H. Wright who then subdivided the property in 1893. The boundaries of the Wright Subdivision were defined by West San Carlos Street to the north, Narcisco Street (currently Bird Avenue) to the east, and San Salvador Street (currently Auzerais Avenue) to the south. Royal Avenue was added as a connector between San Carlos and San Salvador.

The project area was predominately developed with canneries and fruit processing companies. The Wright Subdivision, and other lands in the area, were developed with housing which was mostly occupied by cannery workers. In 1908, Sodality Park was constructed on a portion of the project site, between the Wright Subdivision and Los Gatos Creek. The park was owned by the Men's Sodality of St. Joseph's Church (a fraternal organization) and was used as a baseball field for amateur teams. By 1920, the ball field was converted to a semi-pro baseball park and the San José semi-pro team played in the Mission League. Major league baseball stars including Ty Cobb, Babe Ruth, and Lou Gehrig played at the park during off-season exhibition games.

The Southern Pacific rail line was relocated in the 1930s and required the acquisition of a substantial portion of the land at the park. As a result, the baseball field was abandoned by the mid-1930s. The existing Orchard Supply Hardware building, located where the ball field's grandstand, bleachers, and store once sat, was constructed in 1946.

The project site has been developed since the late 1800's. Due to the early development of the project area prior to systematic archaeological surveys, subsurface historic resources may still exist on-site.



Original Orchard Supply Hardware building with houses along Royal Avenue (circa late 1940's)

4.5.1.3 Historic Structures – Regulatory Framework

Below is an overview of criteria used to assess the historic significance and eligibility of a building, structure, object, site or district for listing in the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), and the City of San José Historic Resource Inventory.

National Criteria

The NRHP is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archaeology, engineering, and culture, at the local, State, and National level. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context," and second, the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. As listed under Section 8, "Statement of Significance," of the National Register of Historic Places Registration Form, these are:

- A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
- B. Property is associated with the lives of persons significant in our past.
- C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D. Property has yielded, or is likely to yield, information important to prehistory or history.

State of California Criteria

The California Office of Historic Preservation's Technical Assistance Series #6, *California Register and National Register: a Comparison*, outlines the differences between the federal and state processes. The context types to be used when establishing the significance of a property for listing on the California Register of Historical Resources are very similar, with emphasis on local and State significance. They are:

- 1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
- 2. It is associated with the lives of persons important to local, California, or national history; or
- 3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
- 4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

City of San José Criteria for Local Significance

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

- 1. An individual structure or portion thereof;
- 2. An integrated group of structures on a single lot;

3. A site, or portion thereof; or
4. Any combination thereof.

The ordinance defines the term “historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature” as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
 - a. Of an architectural style, design or method of construction;
 - b. Of a master architect, builder, artist or craftsman;
 - c. Of high artistic merit;
 - d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
 - e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
 - f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A). The ordinance also provides a designation of a district: “a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B). Although the definitions listed are the most important determinants in evaluating the historic value of San José resources, the City of San José also has a numerical tally system that must be used in identifying potential historic resources. The “Historic Evaluation Sheet” requires resources to be rated according to visual quality/design; history/association; environment/context; integrity; reversibility; interior quality and conditions; and NRHP/CRHR status. A points-based rating system is used to score each building according to the extent to which it meets the criteria listed above. The final tallies are divided into three categories:
 - Candidate City Landmark (CCL)
 - Structure of Merit (SM) and/or Contributing Structure (CS)
 - Non-Significant (NS)/Non-Contributing Structure (NCS)

According to the City of San José’s *Guide to Historic Reports*, a City Landmark is “a significant historic resource having the potential for landmark designation as defined in the Historic Preservation Ordinance. Preservation of this resource is essential.” The preservation of Structures of Merit “should be a high priority” but these structures are not considered significant resources for the purposes of CEQA.

4.5.1.4 Structures on the Project Site

The Orchard Supply Hardware building and the house were evaluated for historic significance based on the National, State, and local criteria. The discussion below is a summary of the analysis findings. The full analysis, including Department of Parks and Recreation forms (DPR 523) is provided in Appendix A.

Orchard Supply Hardware Building

Orchard Supply Hardware was founded in 1931 as a local farmer cooperative. The cooperative was formed by 30 local farmers to buy and share farm supplies and equipment. The group originally rented a warehouse on Bassett Street to house the materials. By 1933, the co-op needed a larger site and relocated downtown to 44 Vine Street. The new location allowed for an expansion of the co-op to include hardware, gardening supplies, and housewares and it was opened to the public. The business was a success and in 1946, a new store was constructed on the project site. By the 1950's, the business was no longer a co-op but was officially a retail business serving the new post-World War II population. A second store was opened at 449 East Santa Clara Street in 1957 to meet growing customer demand. Additional stores were added throughout Santa Clara County in the 1960's. By 1980, the company had expanded beyond Santa Clara County with stores in Modesto, San Lorenzo, Dublin, and Vallejo. The building on the project site is the oldest surviving Orchard Supply Hardware store.

The original building was designed by Higgins & Root, a prominent local firm that focused on modern architecture. The Orchard Supply Hardware building was built of reinforced concrete, with a steel truss roof inlaid with wire-glass skylights. Other features of the building included a glass inlaid steel sash overhang along the easterly façade of the building. The building was originally oriented toward San Carlos Street with the main entrance at the north end of the building.

In 1960, the main entrance of the building was relocated to the eastern side of the building. In 1963, two major additions to the building were added and the outdoor garden center was created. Between 1960 and 1968, all but one of the houses on the eastern half of the site was demolished to accommodate expansion of the parking lot.



Original Orchard Supply Hardware building with entrance to the north (1960)



Current Orchard Supply Hardware building with entrance to the east and garden center (2012)

The historical assessment of the building concluded that it is not eligible for inclusion in the NRHP or the CRHR under any criteria. While the Orchard Supply Hardware site played a role in supporting Santa Clara Valley's agricultural businesses, it is not associated with events that made a significant contribution to the broad patterns of local or regional history. The founding General Manager of the original co-op, Mr. Stanley Smith, is recognized for his work in creating the Orchard Supply Hardware retail chain. Nevertheless, Mr. Smith is not recognized as a person of local, statewide, or national importance. The building was originally designed and constructed by a prominent local architectural firm in San José, but the building has been significantly altered and no longer represents the innovative and modern design originally conceived for the structure. As a result, the building does not embody the distinctive characteristics of a type, period, or method of construction or represent the work of a master. The building would not provide information important to the prehistory or history of San José, California, or the Nation.

The Orchard Supply Hardware building scored 55.96 on the City's Historic Evaluation Tally Sheet. This score classifies the building as a Structure of Merit. According to the City's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), the preservation of Structures of Merit "should be a high priority" but these structures are not considered significant resources for the purposes of CEQA.

Single-Family Residence (655 Auzerais Avenue)

The structure at 655 Auzerais Avenue is a two-story Queen Anne style house that was constructed between 1895 and 1896. This house, along with another on the east side of Royal Avenue, are the last remaining residences of the original Wright Subdivision.

The building is tall and square with three wings that extend out below a central peak of a hipped roof. Two-story gabled wings extend outward towards the two street frontages. The building is clad in horizontal wood siding and fish scale shingles. The building is unusually low to the ground for a Victorian-era house, but shows signs of a well designed and constructed house. The designer and builder of the house is unknown.



Existing house on the southeast corner of the project site (2012)

While the original porch has been removed and architectural features of the building have been lost since the building was vacated, many defining aspects of the buildings Queen Anne style still remain. These features include the gable window/vent units, scrolled moldings, and turned columns. The front door is not original to the structure, but the casings, including the transom area, are original. The historical assessment of the building concluded that it is not eligible for inclusion in the NRHP or the CRHR under any criteria. While the Wright Subdivision was one of the early subdivision

developments in San José, it is not associated with events that made a significant contribution to the broad patterns of local or regional history. The structure is primarily associated with the Jetter and Zotta families, none of whom are significant personages at the local, State, or Federal level.

The house retains a high level of integrity and does not appear to have been substantially altered over time. It also remains a very good representation of a small custom designed Queen Anne residence of the late Nineteenth Century. Nevertheless, the loss of the front porch has compromised its ability to adequately convey its historic origins. Due to the loss of building fabric and the fact that the building is now located within a commercial parking lot and no exterior space of residential character remains (except for remnants along the street frontages), the building no longer embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master. The building would not provide information important to the prehistory or history of San José, California, or the Nation.

The house was previously evaluated and found eligible for the San José Historic Resources Inventory as a Structure of Merit. Due to the deterioration of the property since it was vacated, a re-evaluation of the property was completed. The evaluation resulted in a building score of only 31.62 on the City's Historic Evaluation Tally Sheet. With this score, the building can no longer be classified as a Structure of Merit and is no longer eligible for the City's Historic Resources Inventory.

4.5.1.6 Applicable Cultural Resources Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to the proposed project.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building.² A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

² For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,6
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
4. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3

In addition to the thresholds listed above, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory.

4.7.2.2 **Impacts to Subsurface Cultural Resources**

Prehistoric and Historic Resources

The *2040 General Plan Final EIR* concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on subsurface prehistoric and historic resources.

Policy ER-10.1 states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

The project site is located within a sensitivity area for prehistoric resources. Soil borings on the southern half of the site (the Phase 1 area) found fill material ranging from depths of 1.5 feet to 18.5 feet below the ground surface. The depth and extent of undocumented fill on-site is assumed to be associated with the removal of 8,000 cubic yards of soil as part of soil remediation program completed in 1996.

The project does not propose any underground structures (such as parking) and trenching for new utilities would not exceed 10 feet in depth. Due to the extensive ground disturbance that has occurred on the southern half (Phase 1 area) of the site, the potential for discovery of significant prehistoric or historic archaeological materials within this area of the project site is low. The condition of the soils underneath the Orchard Supply Hardware building has not, however, been documented and it is reasonable to assume that the depth of disturbed and/or fill soil in this area is less than the rest of the site. Demolition of the existing Orchard Supply Hardware building and foundation and grading/trenching of the site within the building footprint could, therefore, damage as yet unrecorded subsurface resources.

Impact CUL – 1: Subsurface cultural resources could be uncovered and disturbed during demolition/construction of the proposed project, resulting in a significant impact to archaeological materials. **(Significant Impact)**

Project-Specific Mitigation

The following project-specific mitigation measures will be implemented during construction to avoid significant impacts to unknown subsurface cultural resources:

MM CUL-1.1: A qualified archaeologist will be on-site to monitor the initial excavation of native soil on the northern half of the project site once all pavement and engineered soil is removed. After monitoring the initial excavation in this area, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring will be required.

MM CUL-1.2: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the northern half of the site, all activity within a 50-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.

MM CUL-1.3: In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make

recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. Based on the underlying geologic formation of the project site, the *2040 General Plan Final EIR* found the project site to have a high sensitivity (at depth) for paleontological resources. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, however, mammoth remains were found along the nearby Guadalupe River in San José in 2005.

The *2040 General Plan Final EIR* concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on paleontological resources.

As previously noted, soil borings on the southern half of the site (the Phase 1 area) found fill material ranging from depths of 1.5 feet to 18.5 feet below the ground surface. The depth and extent of undocumented fill on-site is assumed to be associated with the removal of 8,000 cubic yards of soil as part of soil remediation program completed in 1996.

The project does not propose any underground structures (such as parking) and trenching for new utilities would not exceed 10 feet in depth. Due to the limited subsurface disturbance that will occur at depth, the distance of the site from the bay, and because extensive ground disturbance has already occurred on the southern half (Phase 1 area) of the site, the potential for discovery of significant paleontological resources on the project site is low. Implementation of the proposed project will have a less than significant impact on paleontological resources. **(Less Than Significant Impact)**

4.5.2.3 Impacts to Historic Structures

Demolition of Buildings on the Project Site

As discussed in Section 4.5.1.4 above, the two buildings on the project site would not be eligible for the California or National Registers and have not been identified by the City of San José as architecturally or historically significant. Therefore, demolition of these structures would have a less than significant impact on historic structures. **(Less Than Significant Impact)**

The existing warehouses on-site were built between 1946 and 1967, and have improvements that date to recent times. The warehouse buildings have no consistency amount them in material type or massing and do not represent a unique or important historical resource. These structures would not

be eligible for the California or National Registers and have not been identified by the City of San José as architecturally or historically significant. **(Less Than Significant Impact)**

Other On-Site Structures

The existing Orchard Supply Hardware pole sign on the northern edge of the project site is not original to the site and was not installed during the building's period of significance. The sign will be retained on-site but relocated approximately 70 feet to the east to a more visually prominent location at the corner of W. San Carlos Street and Royal Avenue. The sign, by itself, is not historically significant and relocation of the sign on-site will not result in a significance impact.³ **(Less Than Significant Impact)**

The origin of the rail car stored at the southwest corner of the property is not documented. The age of the car is also not known, but it was not located on-site while the rail spur was active. It is highly unlikely that the rail car itself is a significant artifact. While the rail car has multiple Orchard Supply Hardware logos painted on it, some of which appear recent, there is no documentation that directly connects the rail car to operation of the store. The loss of the rail car would not constitute a significant impact. **(Less Than Significant Impact)**

Impact of the Proposed Project on Adjacent and Nearby Historic Structures

Based on the City's Historic Resources Inventory, there are no identified historic structures adjacent to or in close proximity to the project site. As a result, redevelopment of the project site will have no impact on off-site historic resources. **(No Impact)**

4.5.3 Conclusion

With implementation of the mitigation included in the project as described above, the project will have a less than significant impact on subsurface prehistoric and historic resources. **(Less Than Significant Impact With Mitigation)**

Implementation of the proposed project will have a less than significant impact on paleontological resources. **(Less Than Significant Impact)**

Implementation of the proposed project would have a less than significant impact on historic structures. **(Less Than Significant Impact)**

³ Personal Communication – Franklin Maggie, Historical Consultant, Archives & Architecture. March 2013.

4.6 GEOLOGY AND SOILS

The following discussion is based on a geotechnical report prepared by *Moore Twining Associates, Inc.* in February 2013. The report can be found in Appendix B of this document.

4.6.1 Setting

4.6.1.1 Geology and Soils

The project site is located within an alluvial plain that surrounds San Francisco Bay. The area is relatively level and generally trends toward the Bay. The project site subsurface is comprised of Holocene alluvial fan deposits made up of lean and clay soils with thin interbedded layers of clayey sand and sandy silts.

Based on site specific soil borings on the southern half of the site, the upper 1.5 to 18.5 feet of the subsurface is comprised fill, mainly lean and fat clay soils with variable amounts of wood and brick debris. Beneath the fill layer is varying layers of the native clay and sand layers. The depth to groundwater at the site is approximately 29 feet bgs. It is assumed that the northern half of the site also has some fill material (approximately one to three feet) under which is native clay and sand layers consistent with the rest of the site.

4.6.1.2 Seismicity and Seismic Hazards

TABLE 2 Active Faults Near the Project Site	
Fault	Distance from Site
San José	2.0 miles W
Silver Creek	2.2 miles E
Hayward	10.2 miles NE
Monte Vista – Shannon	11.1 miles SW
Calaveras	14.9 miles NE
San Andreas	18.1 miles SW

The project site is located within the seismically active San Francisco Bay Region. The Uniform Building Code designates the entire Bay Area as Seismic Activity Zone 4, the most seismically active zone in the United States. The project site is not within a defined Alquist-Priolo Earthquake Fault Zone and no active faults have been mapped on-site. Therefore, the risk of fault rupture at the site is low. The faults in the region are, however,

capable of generating earthquakes of magnitude 7.0 or higher and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Active faults near the project site are shown in Table 2.

Liquefaction and Differential Settlement

Liquefaction is the result of seismic activity and is characterized as the transformation of loose water saturated soils from a solid state to a liquid state during ground shaking. Soils most susceptible to liquefaction are loose to moderately dense, saturated, non-cohesive soils with poor drainage.

Differential settlement is the unequal settlement of material that causes a gradual, uneven downward movement of a structure's foundation. According to the California Geological Survey, the project

site is located within a potential liquefaction zone. Based on an analysis of soils on-site, the geotechnical report concluded that liquefaction potential, including differential settlement, for the site is low.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as the steep bank of a stream channel. The project site is relatively flat and, while the site is adjacent to Los Gatos Creek, the geotechnical report concluded that the potential for lateral spreading is low.

4.6.1.3 Applicable Geological Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-4.1: Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.6.2 **Environmental Checklist and Discussion**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7
b. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7
c. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7
d. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7
2. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7

4.6.2.1 Geology and Soils Impacts

Faults in the area are considered active and have a long history of seismic activity. The project site would experience fairly intense ground shaking in the event of a large earthquake; though the probability for liquefaction, settlement, and lateral spreading is low.

The General Plan FEIR concluded that adherence to the California Building Code would reduce seismic related impacts to a less than significant level. The proposed project will be built and maintained in accordance with site-specific geotechnical report and applicable regulations including the most recent California Building Code which contains the regulations that govern the construction of structures in California.

The proposed development on the project site was analyzed in the *Moore Twining Associates* geotechnical report referenced at the beginning of this section. The report makes specific recommendations regarding the design of building foundations and supports based on soil conditions, depth to groundwater, and potential seismic conditions. The report also makes recommendations regarding site preparation and pavement. The proposed project will be constructed in conformance with the recommendations of the site-specific geotechnical analysis as well as the most current California Building Code.

Because the proposed project will comply with the regulations identified in the General Plan FEIR that ensure geologic hazards are mitigated, the project would not result in a significant geologic impact. **(Less Than Significant Impact)**

4.6.2.2 Construction Impacts

The majority of the site is flat and developed and very little soil is currently exposed on the site. Ground disturbance would be required for demolition of the existing buildings and surface parking lot, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. The City will require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following measures identified in the General Plan FEIR for avoiding and reducing construction related erosion impacts.

- All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
- Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
- Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

Because the project will comply with the regulations identified in the General Plan FEIR, implementation of the proposed project would have a less than significant soil erosion impact. **(Less Than Significant Impact)**

4.6.3 Conclusion

Implementation of the proposed project would have a less than significant geology and soils impact. **(Less Than Significant Impact)**

4.7 GREENHOUSE GAS EMISSIONS

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the “greenhouse effect” is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth’s atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1 Existing On-Site GHG Emissions

The proposed project site is currently developed with one commercial building, two accessory buildings, and a vacant single-family house. The existing commercial buildings generate GHG emissions from electricity use, water use, and heating/cooling as well as from motor vehicles traveling to and from the site. The house does not currently generate GHG emissions.

4.7.2 Regulatory Background

4.7.2.1 State of California

AB 32, CEQA, and Other Laws and Regulations

The Global Warming Solutions Act (also known as “Assembly Bill (AB) 32”) sets the State of California’s 2020 greenhouse gas emissions reduction goal into law. The Act requires that the GHG emissions in California be reduced to 1990 levels by 2020. Prior to adoption of AB 32, the Governor of California also signed Executive Order S-3-05 which identified CalEPA as the lead coordinating State agency for establishing climate change emission reduction targets in California. Under Executive Order S-3-05, the state plans to reduce GHG emissions to 80 percent below 1990 levels by 2050. Additional state law and regulations related to the reduction of greenhouse gas emissions includes SB 375, the Sustainable Communities and Climate Protection Act (see discussion below), the State’s Renewables Portfolio Standard for Energy Standard (Senate Bill 2X) and fleet-wide passenger car standards (Pavley Regulations).

The California Natural Resources Agency, as required under state law (Public Resources Code Section 21083.05) has amended the state CEQA Guidelines to address the analysis and mitigation of greenhouse gas emissions. In these changes to the CEQA Guidelines, Lead Agencies, such as the City of San José, retain discretion to determine the significance of impacts from greenhouse gas emissions based upon individual circumstances. Neither CEQA nor the CEQA Guidelines provide a specific methodology for analysis of greenhouse gases and under the amendments to the CEQA Guidelines, a Lead Agency may describe, calculate or estimate greenhouse gas emissions resulting from a project and use a model and/or qualitative analysis or performance based standards to assess impacts.

Senate Bill 375

Senate Bill 375 (SB 375), also known as the Sustainable Communities and Climate Protection Act of 2008, requires regional transportation plans to include a Sustainable Communities Strategy (SCS) that links transportation and land use planning together into a more comprehensive, integrated process. The SCS is a mechanism for more effectively linking a land use pattern and a transportation system together to make travel more efficient and communities more livable. The result is reduced greenhouse gas emissions from passenger vehicles along with other benefits.

The target for the Bay Area is a seven percent per capita reduction in GHG emissions attributable to automobiles and light trucks by 2020 and a 15 percent per capita reduction by 2035. The base year for comparison of emission reductions is 2005. The 2013 Regional Transportation Plan will be the Bay Area's first plan that is subject to SB 375.⁴ A draft Jobs-Housing Connection Scenario that is part of the regional planning effort under SB 375 was released on March 9, 2012. The project site is within an area designated as a *Regional Center* in a Priority Development Area. Priority Development Areas are those areas where most of the growth in the Bay Area is anticipated to occur.

4.7.2.2 BAAQMD CEQA Guidelines and 2010 Bay Area Clean Air Plan

BAAQMD identifies thresholds of significance for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines.⁵ These guidelines include recommended significance thresholds, assessment methodologies, and mitigation strategies for GHG emissions. Under the BAAQMD CEQA Guidelines, if a project would result in operational-related greenhouse gas emissions of 1,100 metric tons (MT) (also called the “bright line” threshold), or 4.6 metric tons per service population⁶ of carbon dioxide equivalents (CO_{2e}) per year or more, it would make a cumulatively considerable contribution to greenhouse gas emissions and result in a cumulatively significant impact to global climate change. In jurisdictions where a qualified Greenhouse Gas

⁴One Bay Area. “One Bay Area Fact Sheet”. Accessed October 22, 2012. Available at: <http://www.onebayarea.org/pdf/SB375_OneBayArea-Fact_Sheet2.pdf >

⁵ In December 2010, the California Building Industry Association (BIA) filed a lawsuit in Alameda County Superior Court challenging toxic air contaminants and PM_{2.5} thresholds developed by BAAQMD for its CEQA Air Quality Guidelines (California Building Industry Association v. Bay Area Air Quality Management District, Alameda County Superior Court Case No. RG10548693). One of the identified concerns is that the widespread use of the thresholds would inhibit infill and smart growth in the urbanized Bay Area. On March 5, 2012, the Superior Court found that adoption of thresholds by BAAQMD in its CEQA Air Quality Guidelines is a CEQA project and BAAQMD is not to disseminate officially sanctioned air quality thresholds of significance until BAAQMD fully complies with CEQA. No further findings or rulings were made on the thresholds of the updated BAAQMD Air Quality Guidelines. The City understands the effect of the lawsuit to be that BAAQMD may have to prepare an environmental review document before adopting the same or revised thresholds. However, the ruling in the case does not equate to a finding that the quantitative metrics in the BAAQMD thresholds are incorrect or unreliable for meeting AB 32's climate protection goals. Per the State CEQA Guidelines [Section 15064(b)], the determination of whether a project may have a significant effect on the environment is subject to the discretion of each individual lead agency, based upon substantial evidence. For the assessment of GHG emissions impacts the City of San José analyzes project conformance with its adopted GHG Reduction Strategy as allowed for in the CEQA Guidelines and BAAQMD CEQA Air Quality Guidelines.

⁶ Service population is defined as the sum of the number of residents and the number of employees at the development.

Reduction Strategy⁷ has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative greenhouse gas emission impacts to a less than significant level. The BAAQMD CEQA Guidelines also outline a methodology for estimating greenhouse gases.

The Bay Area 2010 Clean Air Plan (CAP) is a multi-pollutant plan that addresses GHG emissions along with other air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the CAP is climate protection. The 2010 CAP includes emission control measures in five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact Measures, and Energy and Climate Measures. Consistency of a project with current control measures is one measure of its consistency with the CAP. The current CAP also includes performance objectives, consistent with the state's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

4.7.2.3 City of San José

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes a Greenhouse Gas Reduction Strategy embedded in its policies and programs that are designed to help the City sustain its natural resources, grow efficiently, and meet State legal requirements for GHG emissions reduction. Multiple policies and actions in the *Envision San José 2040 General Plan* have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates as outlined in the *CEQA Guidelines* and the recent standards for "qualified plans" as set forth by BAAQMD.

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City's discretion.

Compliance with the mandatory measures and voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

⁷ The required components of a "qualified" Greenhouse Gas Reduction Strategy or Plan are described in both the CEQA Guidelines (Section 15183.5 *Tiering and Streamlining the Analysis of Greenhouse Gas Emissions*) and the BAAQMD CEQA Air Quality Guidelines (Section 4.3 *Greenhouse Gas Reduction Strategies*) as amended in June 2010.

4.7.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.7.3.1 Greenhouse Gas Emissions Impacts

Operational Emissions

The City of San José has an adopted GHG Reduction Strategy that was approved by the City Council in November 2011 in conjunction with the *Envision San José 2040 General Plan*. In order to conform to the GHG Reduction Strategy, projects must be consistent with the Land Use/Transportation Diagram and incorporate features into the project that meet the mandatory implementation policies.

The proposed project would replace the existing commercial building with a new building and construct up to 28,924 square feet of new commercial buildings on-site consistent with the General Plan Land Use/Transportation Diagram.

The proposed project will result in a net increase in traffic trips and an increase in energy usage compared to the existing site conditions. While this would result in an overall increase in GHG emissions, the project provides for expanded retail in the downtown within walking or biking distance of residences and various modes of transit. Furthermore, development of project will be subject to the City's Green Building Ordinance which will ensure operational emissions reductions consistent with the GHG Strategy. Therefore, the proposed project would be consistent with the City's GHG Reduction Strategy and General Plan and would have a less than significant GHG emissions impact. **(Less Than Significant Impact)**

Construction Emissions

The proposed commercial project would result in minor increases in GHGs associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. Because project construction will be

a temporary condition and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32, the increase in emissions would be less than significant. **(Less Than Significant Impact)**

4.7.3.2 Conformance with Applicable Plans

Greenhouse Gas Reduction Strategy

As discussed in the Regulatory Background section above, the City of San José has an adopted GHG Reduction Strategy which includes both mandatory measures for all projects and other measures which are considered voluntary. Voluntary measures could be incorporated in the project as mitigation measures for proposed projects, at the discretion of the City.

Compliance with the mandatory measures and any voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy. The proposed project is consistent with the Land Use/Transportation Diagram designation of *Combined Industrial/Commercial*. The proposed development will be required to incorporate the mandatory green building measures and bicycle and pedestrian site design measures, as applicable. Furthermore, the City of San José will require that the developer implement a transportation demand management program⁸ as a condition of approval. **(Less Than Significant Impact)**

4.7.4 Conclusion

Development of the proposed project will incorporate applicable policies of the City's adopted GHG Reduction Strategy and, therefore, would have a less than significant GHG impact. **(Less Than Significant Impact)**

⁸ A transportation demand management (TDM) program is a plan that outlines measures to reduce project generated traffic trips.

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase 1 Environmental Site Assessment prepared for the site by *Professional Service Industries, Inc.* in July 2012. A copy of this report is provided in Appendix C of this document.

4.8.1 Existing Setting

The 5.78-acre project site is currently developed with a large commercial building (circa 1946) occupied by a hardware store, two accessory buildings (circa 1947), a vacant single-family house (circa 1895), and a large surface parking lot.

Based on the Phase 1 report, it is estimated that the direction of groundwater flow beneath the project site is east northeast. Groundwater occurs at a depth of approximately 29 feet bgs.

4.8.1.1 Site History

The Phase 1 report describes the land use history of the site has been compiled based on aerial photographs, Sanborn fire insurance maps, topographic maps, building records, and City directories. The DPR forms (Section 4.5, *Cultural Resources*) completed for the existing buildings on-site also provide site history information. Based on a review of these sources, the project site was part of the original Wrights Subdivision which was created in 1893. Housing construction began on site in the 1890s and a baseball field was constructed by 1915. By the mid 1930's, the baseball field was removed but the housing along Royal Avenue remained. The existing Orchard Supply Hardware building was constructed in 1946 and the accessory buildings were constructed one year later. The majority of the houses along Royal Avenue were demolished by 1968.

The surrounding area was also utilized primarily as residential land in the late 1800s and early 1900s. By the 1950's, the surrounding housing began to be replaced with commercial businesses and/or existing houses were converted to commercial businesses. This trend continued until only a small pocket on single-family houses remained on Auzerai Avenue west of the project site. The nearby multi-family housing to the east and west was constructed within the last 10 years.

4.8.1.1 On-Site Sources of Contamination

The following discussion is based on an Environmental Site Assessment prepared in 2012.

Lead and Asbestos

The buildings on- site was constructed in 1896, 1946, and 1947. Due to the age of the buildings, asbestos-containing materials (ACMs) and/or lead-based paint are likely present. ACMs are of concern because exposure to ACMs has been linked to cancer. ACMs are defined by the Federal Environmental Protection Agency as material containing more than one percent asbestos. Title 8, Section 1529, of the California Code of Regulations (CCR), however, defines asbestos-containing construction material (ACCM) as any manufactured construction material which contains more than one-tenth of one percent asbestos by weight.

Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. Lead compounds continued to be used as corrosion inhibitors, pigments and drying agents from the early 1950's. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 parts per million [ppm]) and in 1978, to 0.06 percent (600 ppm).

Based on a visual survey of the buildings, the following ACM suspect building materials were identified: ceiling tiles, drywall, floor tiles, vinyl cove base mastic, and ceramic tile grout. It is reasonable to assume that the house and commercial buildings contain lead-based paints.

Hazardous Materials Use and Storage

Due to the nature of the business on-site, small quantities of hazardous materials (including paints, pesticides, herbicides, acids, corrosives, poisons, and petroleum hydrocarbons) are routinely present on the retail floor, stored in the warehouse, and used on-site. Hazardous waste is stored on-site in small containers (five to 25 gallons) until picked up for disposal.

Hazardous Materials Releases

The project site formerly had three underground storage tanks (USTs) that held petroleum hydrocarbons. A release from these USTs occurred and as a result of the contamination, 8,000 cubic yards of impacted soil was removed from the site. The project site received a case closure from the Regional Water Quality Control Board (RWQCB) in 1996 and no additional remediation was required.

4.8.1.2 Off-Site Sources of Contamination

Nine sites were identified in the immediate project area that use and or store hazardous materials and have had documented releases. All 10 businesses and the nature of the contamination are listed in Table 3 below.

TABLE 3		
Off-Site Sources of Contamination		
Facility/Address	Location	Findings
Tony's Auto Repair 696 Auzerais	South of project site	One UST was removed from the site in 1985 and petroleum hydrocarbons were found in the soil. Remediation was completed and a case closure was issued by the Santa Clara Department of Environmental Health (SCDEH) in 2005.

TABLE 3 Continued Off-Site Sources of Contamination		
Facility/Address	Location	Findings
Chevron 602 W. San Carlos	East of project site	Four USTs were removed from the site in 1987 and petroleum hydrocarbons were found in the soil. Remediation was completed and a case closure was issued by the RWQCB in 2011.
Unocal 602 W. San Carlos		Five USTs were removed from the site in 1990 and petroleum hydrocarbons were found in the soil. Remediation was completed and a case closure was issued by the RWQCB in 2000.
Kelly Moore Paints 710 Auzeraiis	South of project site	No documented releases have occurred on this site.
Ross Tire and Automotive 741 Auzeraiis	West of project site	No documented releases have occurred on this site.
Wegner Auto Clinic 648 Auzeraiis Avenue	South of project site	No documented releases have occurred on this site.
Harold S Automotive 646 Auzeraiis	South of project site	No documented releases have occurred on this site.
GIC Car Clinic 375 Bird	East of project site	No documented releases have occurred on this site.
Cloudburst Car Wash 695 San Carlos	Northeast of project site	The site is listed on several databases for leaking USTs. No additional information was provided.
Dariano & Sons 638 Auzeraiis	Southeast of project site	Two small USTs were removed from the site in 1989 and petroleum hydrocarbons were found in the soil. The contamination was determined to be confined to the property and does not pose a risk to adjacent or nearby properties.

4.8.1.4 Applicable Hazards and Hazardous Materials Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part

of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.

Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.8.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,8
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,8

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,8
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
6. For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
8. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.8.3.1 On-Site Soil and Groundwater Contamination Impacts

As discussed in Section 4.8.1.1, the project site formerly had three USTs that held petroleum hydrocarbons. A release from these USTs occurred and as a result of the contamination, 8,000 cubic yards of impacted soil was removed from the site. The project site received a case closure from the Regional Water Quality Control Board (RWQCB) in 1996 and no additional remediation was required.

Because the proposed use is non-residential, future site users will not be impacted even if residual contaminate remains on-site. It is, however, unknown if the full extent of the soil contamination was cleaned up due to the proposed buildings on-site. If soil contamination still exists on-site above trench worker thresholds, it could impact construction workers on-site.

Impact HAZ-1: Hazardous materials contamination on the site, if encountered in the soil during construction activities, could pose a risk to construction workers and others, and could require disposal at regulated facilities. **(Significant Impact)**

Mitigation Measures: The project includes implementation of the following mitigation measures:

MM HAZ-1.1: After demolition of the Orchard Supply Hardware building but prior to the issuance of grading permits, shallow soil samples shall be taken within the existing building footprint to determine if contaminated soil from previous leaking USTs is located in this area of the site with concentrations above established construction/trench worker thresholds. As a result of the property being a former LUST case, notification of the proposed work must be provided to the Santa Clara County Department of Environmental Health (SCCDEH) prior to collecting any soil samples. The soil sampling plan must be reviewed and approved by the SCCDEH prior to initiation of work.

MM HAZ-1.2: If contaminated soils are found in concentrations above established thresholds for worker safety and/or the proposed land use, a Site Management Plan (SMP) will be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

A SMP will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include: a detailed discussion of the site background; preparation of a Health and Safety Plan by an industrial hygienist; notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the California Regional Water Quality Control Board, San Francisco Bay Region's reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; soil stockpiling protocols; and protocols to manage groundwater that may be encountered during trenching and/or subsurface excavation activities. Prior to issuance of grading permits, a copy of the SMP must be approved by the SCCDEH, the City's Director of Planning, Building and Code Enforcement, and copied to the Environmental Service Department's Environmental Compliance Officer.

(Less Than Significant Impact With Mitigation)

4.8.3.2 Asbestos-Containing Materials and Lead-Based Paint Impacts

The buildings on the project site were all built prior to 1948 and most likely have materials that contain ACMs and/or lead-based paint. The project proposes to demolish the existing buildings on-site which could release asbestos particles and expose construction workers and nearby residents to harmful levels of asbestos. As a result, an asbestos survey must be conducted under National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines. In addition, NESHAP guidelines require that all potentially friable ACM be removed prior to building demolition or renovation that may disturb the ACM.

If lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. It will be necessary, however, to follow the requirements outlined by Cal-OSHA Lead in Construction Standard, Title 8, California Code of Regulation (CCR) 1532.1 during demolition activities; these requirements include employee training, employee air monitoring, and dust control. If lead based paint is peeling, flaking, or blistered, it will be removed prior to demolition. It is assumed that such paint will become separated from the building components during demolition activities and must be managed and disposed of as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed of at landfills that are permitted to accept such waste.

The project is required to conform to the following regulatory programs and to implement the following measures to reduce impacts due to the presence of ACMs and/or lead-based paint:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling shall be conducted prior to the demolition of on-site buildings to determine the presence of asbestos-containing materials and/or lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

The General Plan FEIR concluded that conformance with regulatory requirements will result in a less than significant impact from ACMs and lead. **(Less Than Significant Impact)**

4.8.3.3 Off-Site Soil and Groundwater Contamination Impacts

The Environmental Site Assessment identified 10 sites in proximity to the project site associated with hazardous materials storage/usage. Of the 10 sites, four have documented releases of hazardous contaminants. Soil contamination tends to be localized, but contaminants can migrate off-site if the contamination comes into contact with groundwater.

Of the four known contaminated sites, two sites (Chevron/Unocal and Tony's Auto Repair) have been remediated and based on their case closure status and proximity to the project site, relative to groundwater flow direction, these sites pose no risk to the project site. Cloudburst Car Wash is located northeast of the project site and is therefore, down gradient of the project site. While the release on this site is not known, it poses no risk to the project site. Lastly, the contamination on the Dariano & Sons site was found to be localized. Therefore, even though the project site is located up gradient of the project site, it poses no risk to the project site.

Implementation of the proposed project will not expose any future site users or construction workers to soil or groundwater contamination from off-site hazardous materials releases. **(No Impact)**

4.8.3.4 Other Hazard Impacts

The project site is not located within an airport influence area and would not result in a substantial safety hazard for people residing or working at the project site. **(No Impact)**

The proposed project would not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan. **(No Impact)**

The proposed project is located in a highly urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. **(No Impact)**

4.8.4 Conclusion

With implementation of the identified mitigation measures, the project would have a less than significant hazardous materials impact. **(Less Than Significant Impact with Mitigation)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0234H), the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain.

4.9.1.2 Dam Failure

Based on the Association of Bay Area Governments (ABAG) dam failure inundation hazard maps, large portions of the Santa Clara Valley are located in the Lexington Reservoir dam failure inundation hazard zone including the project site.⁹ The project site is located over ten miles from the Lexington Reservoir.

4.9.1.3 Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that will affect the site in the event of a seiche. There are no bodies of water near the project site that will affect the site in the event of a tsunami.¹⁰ The project area is flat and there are no mountains near the site that will affect the site in the event of a mudflow.

4.9.1.4 Storm Drainage System

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Los Gatos Creek. Los Gatos Creek flows to the Guadalupe River which carries stormwater from the storm drains into San Francisco Bay. While the northernmost area of the project site is adjacent to Los Gatos Creek, it does not appear that there is any overland release of stormwater directly into the creek from the project site.

Currently, 99 percent of the project site is covered with impervious surfaces. The pervious surface area is comprised entirely of landscaping around the perimeter of the parking lot. There are existing storm drain lines that run along the northern and western borders of the site that would serve the proposed development.

⁹ Association of Bay Area Governments. *Dam Failure Inundation Hazard Map for NW San José/Milpitas/Santa Clara*. 1995. <<http://www.abag.ca.gov/cgi-bin/pickdamx.pl>> Accessed February 28, 2013

¹⁰ Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region*. <<http://quake.abag.ca.gov/tsunamis>>. Accessed February 28, 2013.

4.9.1.5 Water Quality Regulatory Background

Nonpoint Source Pollution Program

In 1988, the SWRCB adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to comply with the requirements of Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendment (CZARA) of 1990. The Nonpoint Source Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by the Regional Water Quality Control Board (RWQCB) under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- They disturb one acre or more of soil; or
- They disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

Santa Clara Valley Urban Runoff Pollution Prevention Program

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed by the RWQCB to assist co-permittees in implementing the provisions of the NPDES permit. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Environmental Protection Agency develop NPDES application requirements for stormwater runoff. The Program's Municipal NPDES stormwater permit includes provisions requiring regulation of storm water discharges associated with new development and development of an area-wide watershed management strategy. The permit also identifies recommended actions for the preservation, restoration, and enhancement of the San Francisco Bay Delta Estuary.

Applicable projects consist of all new public and private projects that create 10,000 square feet or more of impervious surface collectively over the entire project site and redevelopment projects that add or replace 10,000 square feet or more of impervious surface area on the project site. Additional requirements must be met by large projects (formerly known as Group 1 projects) that create one acre or more of impervious surfaces. These large projects must control increases in runoff peak flow, volume, and duration (referred to as Hydromodification) caused by the project if the increase in stormwater runoff has the potential to cause erosion or other adverse impacts to receiving streams.

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy No. 6-29 requires all new and redevelopment project to implement post-construction Best

Management Practices (BMPs) and Treatment Control Measures (TCMs) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Hydromodification

In addition to water quality controls, the Municipal Regional Stormwater NPDES permit requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious (per the Santa Clara Permittees Hydromodification Management Applicability Map).

City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy No.8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.¹¹ The project must comply with Policy 8-14 as it is applicable at the Development Permit stage.

4.9.1.6 Groundwater

Based on the geotechnical report, groundwater would likely be found at a depth of approximately 29 feet bgs. Groundwater levels will typically fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The project site is mostly comprised of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

4.9.1.7 Applicable Hydrology and Water Quality Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

¹¹ Santa Clara Valley Urban Runoff Pollution Prevention Program web site. http://www.scvurppp-w2k.com/hmp_maps.htm Accessed February 28, 2013

Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.

Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

Policy EC-4.1: Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.9.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
4. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
5. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
6. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
7. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9
9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
10. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.9.2.1 Flooding Impacts

Based on the FEMA flood insurance rate maps, the site is outside the 100-year floodplain. Because of the location of the site and its distance from any 100-year flood zone, implementation of the proposed project will not expose people or structures to significant flood hazards. **(Less Than Significant Impact)**

The project site is located within the Lexington Reservoir dam failure inundation area. Inundation areas, as identified in the General Plan, assume complete failure of the dam with a full reservoir that is completely emptied. Existing regulations and adopted plans and policies reduce the risks to people and property in San José from dam failure. In particular, the California Department of Water Resources, Division of Safety of Dams (DSOD) is responsible for regular inspection of dams in California. DSOD inspects each dam on an annual basis to ensure the dams are safe, performing as intended, and not developing problems. In addition, the SCVWD routinely monitors and studies the condition of each of its 10 dams, including Lexington.

The General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of dam failure would be less than significant. Therefore, the proposed project would have a less than significant dam induced flooding impact. **(Less Than Significant Impact)**

4.9.2.2 Water Quality Impacts

Construction Impacts

The proposed commercial development will disturb approximately 5.78 acres of land area (3.25 in Phase 1 and 2.82 in Phase 2) which is well above the one acre threshold. Therefore, construction of the proposed project would be required to comply with the NPDES General Permit for Construction Activities as it is applicable at the Development Permit stage. Demolition and construction activities would temporarily increase the amount of debris on-site and grading activities would increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. As a result, construction activities on-site would result in a temporary increase in pollutants in stormwater runoff.

All development projects in San José must also comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the applicant will be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the BMPs that will be implemented to prevent the discharge of stormwater pollutants.

Pursuant to the NPDES General Permit for Construction and the City requirements, the following measures, based on RWQCB recommendations, have been included in the project to reduce potential construction-related water quality impacts:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered.
- All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily with water sweepers.
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

- A Stormwater Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB measures.
- The project proponent will submit a copy of the NOI and draft SWPPP to the City of San José for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.
- When construction is complete, a “Notice of Termination” (NOT) for the General Permit for Construction Activities will be filed with the RWQCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction Stormwater Management Plan is in place as described in the SWPPP for the site.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Because construction of the proposed project includes the specific measures and actions identified above, and will be required by the City to comply with the regulatory programs, the project would have a less than significant construction-related water quality impact. **(Less Than Significant Impact)**

Post-Construction Impacts

Under existing conditions, the project site is approximately 99 percent impervious. Upon completion of the proposed development, the project site will be approximately 95 percent impervious. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. Therefore, the project will be required to comply with the City of San José’s Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional NPDES permit. In order to meet these requirements, the project proposes bioswales around the perimeter of the site and within the landscaped medians in the surface parking lots to treat runoff from building roofs and paved areas. Stormwater runoff from these areas will drain into the treatment area prior to entering the storm drainage system. The proposed treatment facility will be numerically sized and will have sufficient capacity to treat the roof runoff entering the storm drainage system consistent with the NPDES requirements.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB requirements and compliance with the City’s regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less Than Significant Impact)**

4.9.2.3 Storm Drainage Impacts

Table 4, below, gives a breakdown of the pervious and impervious surfaces on the project site under both existing and project conditions.

TABLE 4						
Pervious and Impervious Surfaces On-Site						
Site Surface	Existing/Pre-Construction (sf)	%	Project/Post-Construction (sf)	%	Difference (sf)	%
Impervious						
Building Footprint	66,587	26	63,050	25	-3,537	-1
Parking/Driveways/Paths/Sidewalks/Patios	184,136	73	175,830	70	-8,306	-3
<i>Subtotal</i>	<i>250,723</i>	<i>99</i>	<i>238,880</i>	<i>95</i>	<i>-11,843</i>	<i>-4</i>
Pervious						
Landscaping	1,054	1	12,897 ¹²	5	+11,843	+4
TOTAL	251,777	100	251,777	100		

Under existing conditions, approximately 250,723 square feet (99 percent) of the project site is covered with impervious surfaces. Under project conditions, the project site would be covered with approximately 238,880 square feet (95 percent) of impervious surfaces. Implementation of the project would result in a four percent decrease in impervious surfaces at the project site which will result in a net decrease in stormwater runoff.

Under existing conditions, the storm drainage system has sufficient capacity to convey runoff from the site. The net reduction in impervious surface area on-site will ensure that runoff from the project site will be less than existing conditions and the project would not, therefore, exceed the capacity of the local drainage system. **(Less Than Significant Impact)**

4.9.2.4 Groundwater Impacts

The quantity of impervious surfaces on the project site would decrease by four percent compared to the existing condition. The project site does not presently contribute to recharging of the groundwater aquifers and this condition will not change once the proposed development is complete. As a result, implementation of the proposed project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **(Less Than Significant Impact)**

Construction of the proposed project will include trenching for new on-site utility lines. On-site borings found groundwater at approximately 29 feet bgs. Based on this data, the proposed development would not interfere with the shallow groundwater aquifer and would not interfere with

¹² The landscape plan is only defined for the Phase 1 development. As a result, this analysis conservatively counts only the Phase 1 pervious surface area. The analysis assumes no increase in pervious surface area for Phase 2.

overall groundwater flow or impact the deeper groundwater aquifers. **(Less Than Significant Impact)**

4.9.3 Conclusion

Implementation of the proposed project would have less than significant hydrology impacts. **(Less Than Significant Impact)**

4.10 LAND USE

4.10.1 Setting

4.10.1.1 Existing Land Uses

The 5.78-acre project site is currently developed with one single-story commercial building, two accessory buildings, one vacant single-family house, and a large surface parking lot (see Figure 4 - Aerial). The main commercial building is oriented toward Royal Avenue and is setback at the far western end of the property. The two accessory buildings are located immediately south of the main building, along Auzerai Avenue. The two-story house (circa 1895) is located at the southeast corner of the property and has been vacant since approximately 2001. The site is currently accessed by three driveways on Royal Avenue and one driveway on Auzerai Avenue. An approximately 25-foot tall billboard is located immediately west of the house, next to the project site driveway on Auzerai Avenue.

The main commercial building was constructed in 1946 and has been continuously occupied by Orchard Supply Hardware since that time. No other businesses are currently located on-site. The accessory buildings, constructed in 1947, are used for storage and bulk goods pick-up.

4.1.1.2 Surrounding Land Uses

Development in the project area is a mix of retail/commercial, office, and residential land uses. Building heights vary by land use from one to eight stories. The project site is bounded by San Carlos Street to the north, Royal Avenue to the east, Auzerai Avenue to the south, and Los Gatos Creek and the railroad tracks to the west. Adjacent to the project site, San Carlos Street (a four-lane roadway with a partial median) is elevated to cross over the creek. On the north side of San Carlos is a car wash and a recently renovated one-story house that has been converted into a commercial building. Royal Avenue is a two-lane roadway with street trees along the western side of the road. On the east side of Royal Avenue is mix of one-story commercial businesses and gas stations. Auzerai Avenue is a two-lane roadway with very minimal landscaping along the project site frontage. On the south side of Auzerai Avenue are various commercial businesses comprised of one-story commercial buildings and converted one-story houses. Immediately west of the project site is the railroad tracks and Los Gatos Creek.

4.10.1.3 Existing Land Use Designation and Zoning

The project site is designated *Combined Industrial/Commercial* by the *Envision San José 2040 General Plan*. The project site is zoned *Combined Industrial/Commercial* (CIC), consistent with the General Plan.

The General Plan designation allows for a mixture of commercial, office, and industrial land uses with building heights of one to 24 stories and floor area ratios (FARs) of up to 12.0.

Permitted land uses under the CIC zoning are consistent with the *Combined Industrial/Commercial* General Plan land use designation. Zoning Code Section 20.50.010 states that the CIC zoning



AERIAL PHOTOGRAPH

FIGURE 4

designation is intended for commercial or industrial uses, or a compatible mixture of these uses, that support the goals of the combined industrial/commercial General Plan designation. The district allows for a broad range of commercial uses with a local or regional market, including big box retail, and a narrower range of industrial uses, primarily industrial park in nature, but including some low-intensity light industrial uses. Assembly uses and day care centers are allowed where they are compatible with and will not impose constraints on neighboring industrial uses.

4.10.1.4 Applicable Land Use Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy LU-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.

Policy LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

4.10.2 Environmental Checklist and Discussion

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
3. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.10.3 Land Use Impacts

4.10.3.1 Consistency with the General Plan Land Use Designation and Zoning

The project site is currently designated *Combined Industrial/Commercial* in the City of San José General Plan and is zoned *Combined Industrial/Commercial*. Implementation of the proposed project will result in the redevelopment of an underutilized site with new commercial development within close proximity to transit and housing. As designed, the building conforms to the design parameters outlined in the zoning code. Therefore, the project site is consistent with the General Plan and zoning land use designations.

4.10.3.2 Land Use Impacts

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a commercial project located in the downtown area. This area is characterized by small office, retail, and commercial establishments, as well as single-family and multi-family housing.

The project, as proposed, is consistent with the General Plan. The General Plan FEIR concluded that land use conflicts, including impacts to adjacent residential development and existing businesses, can be substantially limited or precluded with implementation of applicable General Plan policies and actions for planning and implementation as well as conformance with identified ordinances and adopted design guidelines. The proposed project will comply with all applicable City policies, actions and ordinances, and will be consistent with adopted design guidelines. Therefore, the proposed project would have a less than significant impact on surrounding land uses. **(Less Than Significant Impact)**

Shade and Shadow

The project proposes multiple one-story buildings that would not shade any public or private open space areas. Therefore, shadows cast by the proposed buildings will have no impact. **(No Impact)**

Other Land Use Issues

The proposed project will not conflict with any applicable habitat conservation plan (see Section 4.4, *Biological Resources*) or natural community conservation plan and will not divide an established community. **(No Impact)**

4.10.3 Conclusion

Implementation of the proposed project would not result in a significant land use impact. **(Less Than Significant Impact)**

4.11 MINERAL RESOURCES

4.11.1 Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources.

4.11.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.11.2.1 Impacts to Mineral Resources

The proposed project is within a developed urban area and it does not contain any known or designated mineral resources. Implementation of the project would not result in the loss of availability of any known resources. **(No Impact)**

4.11.3 Conclusion

Implementation of the proposed project would not result in impacts to known mineral resources. **(No Impact)**

4.12 NOISE

4.12.1 Existing Setting

4.12.1.1 Background Information

Several factors influence sound as it is perceived by the human ear, including the actual level of sound, the period of exposure to the sound, the frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a “decibel” scale which serves as an index for loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the “A-weighted” decibel or dBA.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources that create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01} , L_{10} , L_{50} , and L_{90} , are commonly used. They are the A-weighted noise levels equaled or exceeded during one, 10, 50, and 90 percent of a stated time period. A single number descriptor called the Leq is also widely used. The Leq is the average A-weighted noise level during a stated period of time. An A-weighted maximum noise level is L_{max} .

In determining the daily level of environmental noise, it is important to account for the difference in response of people to daytime and nighttime noises. During the nighttime, exterior background noises are generally lower than daytime levels. Most people sleep at night and are very sensitive to noise intrusion. To account for human sensitivity to nighttime noise levels, a descriptor, DNL (day/night average sound level), was developed. The DNL, divides the 24-hour day into the daytime of 7:00 a.m. to 10:00 p.m. and the nighttime of 10:00 p.m. to 7:00 a.m. The nighttime noise level is weighted to 10 dB higher than the daytime noise level.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

4.12.1.2 Existing Noise Condition

Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways and freeways, light rail trains, and aircraft flyovers. Based on the General Plan FEIR, existing noise levels on the project site are approximately 70 to 75 dBA DNL.

4.12.1.3 Sensitive Receptors

The nearest noise sensitive receptors to the project site are the multi-family residences on the west side of Los Gatos Creek, located approximately 160 feet west of the project site and the single-family residences located on Auzerais Avenue, Gregory Street, and Hannah Street, approximately 250 feet southwest of the project site. There are additional single-family and multi-family residences on the east side of Bird Avenue. These residences, however, are located farther away from the project site than the previously identified residences. The other surrounding buildings are retail/commercial and are not considered sensitive land uses.

4.12.1.4 Applicable Noise Standards and Policies

General Plan

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José. The City's noise and land use compatibility guidelines are shown in Table 5, below.

TABLE 5 Proposed General Plan Land Use Compatibility Guidelines (GP Table EC-1)						
Land Use Category	Exterior DNL Value In Decibels					
	55	60	65	70	75	80
Residential, Hotels and Motels, Hospitals and Residential Care						
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
Schools, Libraries, Museums, Meeting Halls, and Churches						
Office Buildings, Business Commercial, and Professional Offices						
Sports Arenas, Outdoor Spectator Sports						
Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
<div> <div></div> Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. </div> <div> <div></div> Conditionally Acceptable: Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design. </div> <div> <div></div> Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines. </div>						

Policy EC-1.6: Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Municipal Code – Operational Standards

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at any property line of residential, commercial, or industrial properties as shown in Table 6.

TABLE 6 City of San José Zoning Ordinance Noise Standards	
Land Use Types	Maximum Noise Level in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial land uses adjacent to a property used or zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

The Zoning Ordinance also limits noise levels generated by stand-by/backup and emergency generators. The noise level emitted by these generators shall not exceed 55 dBA at the property line of residential properties. The standards and criteria for stand-by/backup generators are set as follows:

1. Maximum noise levels, based upon a noise analysis by an acoustical engineer, will not exceed the applicable noise standards set forth in Title 20.80.2030.
2. Testing of generators is limited to 7 a.m. to 7 p.m., Monday through Friday.

Municipal Code – Construction Standards

According to San José Municipal Code, construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.12.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
6. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

4.11.2.1 Noise Impacts to the Project

Based on the General Plan FEIR, noise levels around the project site range from 70 to 75 dBA. Based on estimated future traffic volumes associated with planned growth and redevelopment in the project area, traffic noise levels will remain between 70 to 75 dBA. The exterior noise environment at the project site will exceed 70 dBA, which is inconsistent with the City's "normally acceptable" noise level standard for commercial land uses. Standard construction techniques can attenuate exterior noise levels by 20 dB when windows are fixed. With fixed windows the interior spaces will have an ambient noise level of approximately 50 to 55 dBA which is well below the 65 dBA interior noise requirements for commercial land uses. While the exterior noise levels will exceed the City's noise standard, interior noise levels can be achieved through standard building construction techniques. As a result, the proposed commercial development is consistent with the noise and land use compatibility guidelines of the *Envision San José 2040 General Plan*. **(Less Than Significant Impact)**

4.11.2.2 Noise Impacts from the Project

Project Generated Traffic Noise Impacts

Based on estimated future traffic volumes associated with planned growth and redevelopment in the project area, traffic noise levels are anticipated to remain consistent through 2035. The proposed project is consistent with the planned growth in the project area and would not increase traffic noise above that already anticipated. Typically, in high noise environments, if the project would cause ambient noise levels to increase by more than three dBA at noise-sensitive receptors, the impact is considered significant. Traffic would have to double to create a perceptible noise impact. The proposed project is not of sufficient size to result in a doubling of total traffic volumes on the surrounding roadways. Since the proposed project will not cause an increase in noise levels in the project area of three decibels or more, it will have a less than significant long-term noise impact on the nearby residential land uses. **(Less Than Significant Impact)**

Mechanical Equipment

The proposed commercial buildings will have rooftop equipment including HVAC systems. General Plan policy EC-1.6 requires existing and new industrial and commercial development to reduce the effects of operational noise on adjacent residential uses through compliance with noise standards in the City's Municipal Code. Conformance with the Municipal Code will ensure that rooftop equipment on the proposed buildings will not result in a significant noise impact. **(Less Than Significant Impact)**

Construction Noise Impacts

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during demolition and the construction of project infrastructure when heavy equipment is used. Typical average construction generated noise levels are about 81 – 89 dB measured at a distance of 50 feet from the center of the site during busy construction periods (e.g.,

earth moving equipment, impact tools, etc.) Construction generated noise levels drop off at a rate of about six dB per doubling of distance between the source and receptor.

The construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site and would be audible at the nearby residences and could pose a significant impact. The General Plan FEIR concluded that short-term construction noise would be mitigated by identified General Plan policies.

Consistent with the Municipal Code and in accordance with the General Plan FEIR, particularly Policy EC-1.7, the proposed project will be required by conditions of project approval to implement the following measures during all phases of construction on the project site:

- Demolition and construction activities on- or off-site, within 500 feet of sensitive receptors, such as residential development, shall be restricted to the hours of 7 a.m. to 7 p.m. Monday through Friday, non-holidays only.
- Staging areas and construction material areas shall be located as far away as possible from adjacent land uses.
- All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.
- All unnecessary idling of internal combustion engines is prohibited.
- All stationary, noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences and businesses.
- The Director of Planning and residential neighborhoods located near the project site shall be notified in writing by the developer of the construction schedule at least seven days prior to the start of construction.
- A noise disturbance coordinator shall be designated who is responsible for responding to complaints about construction noise. The telephone number of the disturbance coordinator shall be posted in a conspicuous place at the construction site and shall also be included in the notice sent to neighbors and the Director of Planning regarding the schedule.
- In the event that pile driving is proposed, nearby residents will be notified of the schedule for its use. Portable acoustical barriers will be installed around pile driving equipment.

(Less Than Significant Impact)

4.11.3 Conclusion

Implementation of the proposed project in conformance with General Plan policies will reduce noise impacts to existing sensitive land uses and future site users and reduce temporary construction noise impacts associated with the proposed project to a less than significant level. **(Less than Significant Impact)**

4.13 POPULATION AND HOUSING

4.13.1 Setting

According to California Department of Finance 2010 census data, San José's population for 2010 was 945,942 persons. In 2010, there were 314,038 households with an average of 3.09 persons per household.¹³ According to the City's General Plan, the projected population in 2035 will be 1.3 million persons occupying 429,350 households.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

4.13.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.13.2.1 Population and Housing Impacts

Implementation of the project will allow for construction of up to 66,187 square feet of commercial space on a site currently developed with one 36,216 square foot commercial building (and accessory structures) and associated parking lot, and a vacant single-family house. This will result in a net

¹³ State of California Department of Finance. *Census 2010*.

http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1 Accessed February 27, 2013.

increase of 29,971 square feet of commercial space on the project site. While the new commercial space would incrementally increase available jobs in the City, it would not induce substantial population growth but it would have a small measurable beneficial effect on the overall jobs/housing imbalance in the City. **(Beneficial Impact)**

Construction of the proposed project would result in the demolition of one vacant single-family house. The house is over 115 years old, has been vacant for 12 years, and is in a severely deteriorated state. The loss of this one house would not displace residents and would not require replacement housing to be constructed elsewhere. **(No Impact)**

4.13.3 Conclusion

Implementation of the proposed project would have a beneficial impact on population and housing in San José. **(Beneficial Impact)**

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 30 located at 454 Auzerais Avenue, approximately 0.30 miles east of the project site.

For fire protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

4.14.1.2 Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately 1.71 miles north of the project site. For the last several years, the most frequent calls for service in the City have dealt with larceny, burglary, vehicle theft, and assault.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

4.14.1.3 Schools, Parks, and Libraries

The proposed project is the redevelopment of a commercial property with new commercial buildings. It does not propose any residential uses. No new residents or students would be directly generated by the implementation of the proposed project. Therefore, the proposed project would have no impact on schools, parks, or library facilities in the City of San José.

4.14.1.6 Applicable Public Services Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José:

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-visible and accessible spaces.

Policy ES-11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

4.14.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.14.2.1 Impacts to Public Services

Fire Protection Services

The General Plan FEIR concluded that planned growth under the General Plan would increase calls for fire protection services in the City. The higher density development envisioned in the General Plan may require additional staffing and equipment to adequately serve the larger population but no new stations would be required other than those already planned.

The proposed increase in development on the project site is accounted for in the planned growth for the City. The project is, however, only a small fraction of the total growth identified in the General Plan. The proposed project, by itself, would not preclude the SJFD from meeting its service goals. As a result, the proposed project would be adequately served by existing resources. No additional fire personnel or equipment would be required.

Furthermore, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan FEIR to avoid unsafe building conditions and promote public safety. As a result, the proposed commercial development would not require new fire stations to be constructed or existing fire stations to be expanded to serve the development while maintaining City service goals. **(Less Than Significant Impact)**

Police Protection Services

The General Plan FEIR concluded that planned growth under the General Plan would increase the population of the City which would require an increase in police services. While the overall service area would not increase, additional police officers and equipment would be needed to serve the larger population. The increase in police personnel may require the expansion of existing police facilities.

The proposed increase in development on the project site is accounted for in the planned growth for the City. The project is only a small fraction of the total growth identified in the General Plan. The proposed project, by itself, would not preclude the SJPD from meeting its service goals. As a result, all future development proposed on-site would be adequately served by existing resources. No additional police personnel or equipment or expanded facilities would be required.

Furthermore, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. As a result, the proposed office development will not require new police stations to be constructed or existing police stations to be expanded to serve the development while maintaining City service goals. **(Less Than Significant Impact)**

4.14.3 Conclusion

The proposed project would have a less than significant impact on public services in San José. **(Less Than Significant Impact)**

4.15 RECREATION

4.15.1 Setting

The City of San José currently operates 180 neighborhood parks (including skate parks), 25 community centers, nine regional parks, and over 54 miles of trails. Amenities within the neighborhood parks can include basketball courts, exercise (par) courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts. Planning, acquisition, and development of parks and recreational facilities in San José are the responsibility of the Parks, Recreation and Neighborhood Services Office.

4.15.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

The proposed project is the redevelopment of a commercial property with new commercial buildings. It does not propose any residential uses. No new residents would be directly generated by the implementation of the proposed project. Therefore, the project would not accelerate the deterioration of local facilities or result in the need for new recreational facilities in the City of San José. **(No Impact)**

4.15.3 Conclusion

The proposed project would have no impact on recreational facilities in the City of San José. **(No Impact)**

4.16 TRANSPORTATION

4.16.1 Setting

4.16.1.1 Local Roadway Network

The project site is bordered by three roadways; West San Carlos Street, Royal Avenue, and Auzerais Avenue. San Carlos is a major east/west roadway through the Midtown and Downtown/Downtown Core area and, as a result, carries high volumes of traffic during the AM and PM peak hours. Auzerais Avenue is a minor two-lane roadway between Delmas Avenue and Meridian Avenue and carries low volumes of traffic. Royal Avenue is a minor roadway segment that connects San Carlos Street to Auzerais Avenue. Bird Avenue is located one block east of the site and is a four lane arterial roadway with access to I-280 to the south.

4.16.1.2 Public Transportation and Pedestrian Facilities

The project site has sidewalks along the Royal Avenue, Auzerais Avenue, and West San Carlos Street frontages. Santa Clara Valley Transportation Authority (VTA) bus lines 23 and 81 stop at the West San Carlos/Royal Avenue intersection and bus line 65 has a stop just west of the site (also on West San Carlos Street), on the west side of the creek.

4.16.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
3. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
4. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
5. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.16.2.1 Transportation Impacts

The project proposes to replace the existing Orchard Supply Hardware building with a new building of comparable size. In addition, the project proposes an additional 28,924 square feet of new retail space on the site. The City has determined that the net increase in Peak Hour traffic resulting from a project of this size would not be of sufficient volume to cause the LOS of any local intersection to degrade below LOS D. **(Less Than Significant Impact)**

Access to the project site is provided via West San Carlos Street and Auzerai Avenue. Under Phase 1 of the project, the existing Orchard Supply Hardware store will be replaced and a new 3,173 square foot commercial building will be constructed. The net increase in commercial square footage on-site during Phase 1 is minimal and the proposed development can be adequately served by the existing roadway network.

Currently, there is a left-turn lane for westbound traffic on West San Carlos Street to turn onto Royal Avenue and enter the project site. This left-turn lane has capacity for two cars to queue and is sufficient to support the future traffic volumes entering the project site under Phase 1. With the implementation of Phase 2, the additional 25,787 square feet of commercial development would increase the amount of traffic entering the site. The City has concluded that the increase in traffic would result in an unsafe condition at the westbound left-turn lane on West San Carlos Street. Specifically, the left-turn queue is insufficient to support additional traffic and cars turning left onto Royal Avenue would back-up into the through lane, obstructing traffic. The City will require the westbound left-turn lane from West San Carlos Street to Royal Avenue to be closed and the median extended prior to issuance of occupancy permits for the Phase 2 development. The re-routing of westbound traffic to Auzerai Avenue (via Bird Avenue) will avoid the identified traffic issue and will not result in an impact to the operation of the local intersections. **(Less Than Significant Impact)**

4.16.2.2 Pedestrian and Public Transportation Facilities Impacts

The proposed project would not modify the existing pedestrian facilities or interfere with existing or proposed public transportation. **(No Impact)**

4.16.2.3 Other Transportation Issues

The proposed project is located approximately 2.02 miles southeast of the Norman Y. Mineta San José International Airport. The proposed project would not result in a change in air traffic patterns or obstruct airport operations. **(No Impact)**

The proposed project would not increase on-site hazards due to the design of the buildings or parking lots and would not result in inadequate emergency access. **(No Impact)**

4.16.3 Conclusion

The proposed project would not result in significant transportation impacts. **(Less Than Significant Impact)**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

4.17.1.1 Water Services

Water service to the site is supplied by the San José Water Company. The 36,216 square foot commercial building uses approximately 2,644 gallons per day (gpd) of water. The attached plant nursery, estimated to be approximately 8,000 square feet in size, uses approximately 608 gpd of water.¹⁴ Therefore, the total water usage on-site is estimated to be 3,252 gpd.

4.17.1.2 Wastewater

Sanitary sewer lines in the area are owned and maintained by the City of San José. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 90 percent of the total on-site water use due to the very limited landscaping on-site. The current land use on the project site is estimated to generate 2,380 gpd of wastewater.¹⁵

Based on the General Plan FEIR, the City's average dry weather flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José/Santa Clara Water Pollution Control Plant (WPCP) is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

4.17.1.3 Storm Drainage

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Los Gatos Creek. Los Gatos Creek flows to the Guadalupe River and carries stormwater from the storm drains into San Francisco Bay. While the northernmost area of the project site is adjacent to Los Gatos Creek, it does not appear that there is any overland release of stormwater directly into the creek from the project site.

Currently, 99 percent of the project site is covered with impervious surfaces. The pervious surface area is comprised entirely of landscaping around the perimeter of the parking lot. There are existing storm drain lines that run along the northern and western borders of the site that would serve the proposed development.

¹⁴ This calculation assumes a water usage rate of 0.073 gallons per day per square foot for the commercial building and 0.076 gallons per day per square foot for the plant nursery, based on data provided by the City of San José.

¹⁵ This number equates to 90 percent of the water usage in the building only. Water used to irrigate plants in the nursery flows to the storm drainage system.

4.17.1.4 Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. In 2008, the City of San José diverted approximately 60 percent of the waste generated in the City. According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

The existing buildings on-site currently generate approximately 91 pounds of solid waste per day.¹⁶

4.17.1.5 Applicable Utilities and Service Systems Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

Action EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

¹⁶Cal Recycle Web Site. <http://www.calrecycle.ca.gov/wastechar/WasteGenRates/Commercial.htm> Accessed February 27, 2013.

4.17.2 Environmental Checklist and Discussion

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
5. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
7. Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.17.2.1 **Water Supply**

Currently, the project site uses approximately 3,252 gpd of water. The proposed project would use approximately 7,604 gpd of water, a net increase of 4,352 gpd over current conditions.

The General Plan FEIR determined that the three water suppliers for the City could serve planned growth under the General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply.

The proposed project is consistent with planned growth in the General Plan and will comply with the policies and regulations identified in the General Plan FEIR. Therefore, implementation of the proposed project would have a less than significant impact on the City's water supply. **(Less Than Significant Impact)**

4.17.2.2 Sanitary Sewer Capacity

The project site currently generates approximately 2,380 gpd of wastewater. The proposed project would generate approximately 6,069 gpd of wastewater, an increase of 3,689 gpd over current conditions.

As stated above, the City currently has approximately 38.8 mgd of excess treatment capacity at the WPCP. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. As a result, development allowed under the General Plan would not exceed the City's allocated capacity at the WPCP. The proposed project is consistent with the development assumptions in the General Plan. Therefore, implementation of the proposed project would have a less than significant impact on the WPCP. **(Less Than Significant Impact)**

4.17.2.3 Storm Drainage System

Under existing conditions, approximately 250,723 square feet (99 percent) of the project site is covered with impervious surfaces. Under project conditions the project site would be covered with approximately 238,880 square feet (95 percent) of impervious surfaces. While the square footage of the plant nursery will increase, resulting in a small increase in stormwater, implementation of the project would result in a four percent decrease in impervious surfaces at the project site which will result in an overall net decrease in stormwater runoff.

Under existing conditions, the storm drainage system has sufficient capacity to convey runoff from the site. The net reduction in impervious surface area on-site will ensure that runoff from the project site will be less than existing conditions and the project would not, therefore, exceed the capacity of the local drainage system. **(Less Than Significant Impact)**

4.17.2.4 Solid Waste

The proposed project would generate approximately 231 pounds per day of solid waste, an increase of 140 pounds per day compared to current conditions. The General Plan FEIR concluded that the increase in waste generated by full build out under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from development allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. This plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

The proposed project is consistent with the development assumptions in the General Plan. Therefore, implementation of the proposed project would have a less than significant impact on the solid waste disposal capacity. **(Less Than Significant Impact)**

4.17.3 Conclusion

Implementation of the proposed project would not require new utilities lines or facilities and would not exceed the capacity of existing utility and service systems. **(Less Than Significant Impact)**

4.18

MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-9
2. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-9
3. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-9
4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-9

4.18.1 Findings

The project would result in temporary air quality, water quality, and noise impacts during construction. With the implementation of the mitigation measures identified in this IS and included in the project, construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts are temporary and will be mitigated, the proposed project would not have a cumulatively considerable impact on air quality, water quality, or noise in the project area.

No known subsurface cultural resources existing on-site and there are no historic buildings on or adjacent to the project site. Due to the site’s proximity to the second location of Pueblo de San José de Guadalupe and Los Gatos Creek, it is possible that unknown historic or prehistoric resources could be found on-site. Because the identified cultural resource impacts from implementation of the project will be mitigated (as described in Section 4.5, *Cultural Resources*), the proposed project would not have a cumulatively considerable impact on cultural resources in the project area.

The proposed project includes measures to reduce GHG emissions and is consistent with the City's GHG Reduction Strategy and would not preclude the City or State from meeting emission reduction limits by the horizon year 2020.

Based on soil samples, the site previously had soil contamination related that was remediated. It is possible that residual contamination still exists on-site under the existing building. In addition, all of the existing buildings likely contain asbestos and/or lead based paint. The identified hazardous materials impacts will be mitigated (as described in Section 4.8, *Hazards and Hazardous Materials*) and would not result in a cumulatively considerable impact.

The proposed project is consistent with the General Plan and zoning designations for the site and would be consistent with all applicable City land use regulations.

As discussed in the respective sections, the proposed project would have no impact or a less than significant impact on agriculture and forest resources, biological resources, geology and soils, mineral resources, population and housing, public services, recreation, and utility and service facilities. The project is consistent with the General Plan and, therefore, the cumulative impacts to utilities, public services, and population and housing have been addressed in the General Plan Environmental Impact Report and accounted for in the City's long-term infrastructure service planning.

The increase in project traffic would be of insufficient volume to impact the operations of local intersections.

There are no recently approved or reasonably foreseeable projects that, when combined with the proposed project, would result in a cumulatively considerable impact not previously identified by the General Plan FEIR.

4.18.2 Conclusion

Implementation of the proposed project would not result in any significant unavoidable impacts, impacts that are cumulatively considerable, or directly or indirectly cause substantial adverse effects on human beings. **(Less Than Significant Impact)**

SECTION 5 CHECKLIST SOURCES

1. CEQA Guidelines - Environmental Thresholds (Professional judgment and expertise and review of project plans).
2. City of San José, General Plan and Zoning Ordinance.
3. City of San José General Plan FEIR
4. California Department of Conservation. *Santa Clara County Important Farmland 2010*. 2011.
5. Bay Area Air Quality Management District (BAAQMD). *Air Quality Guidelines*. June 2011.
6. Historic Resources Evaluation Report – Archives and Architecture
7. Geotechnical Investigation – Moore Twining Associates, Inc.
8. Phase 1 Environmental Site Assessment – Professional Service Industries, Inc.
9. Federal Emergency Management Agency, Flood Insurance Rate Map, Community Panel #06085C0234H. 2009.

SECTION 6 REFERENCES

Archives and Architecture. *Historic Report for 720 West San Carlos Street and 655 Auzerais Avenue*. November 2012

Association of Bay Area Governments. *Building Momentum: Projections and Priorities 2009*, August 2009.

Association of Bay Area Governments. Web Site. <http://www.abag.ca.gov>

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Cal Recycle. Web Site. <http://www.calrecycle.ca.gov>

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City of San José. *Envision San José 2040 General Plan Integrated Final Program EIR*. September 2011

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Moore Twining Associates, Inc. *Geotechnical Engineering Investigation – 720 West San Carlos Street*. February 2013.

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San Francisco Bay Regional Water Quality Control Board web site
http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/mrp.shtml

Santa Clara Valley Urban Runoff Pollution Prevention Program. Web Site. <http://www.scvurppp-w2k.com>

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Persons Consulted

No persons outside of City staff and referenced technical consultants were consulted during preparation of this Initial Study.

SECTION 7 LEAD AGENCY AND CONSULTANTS

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